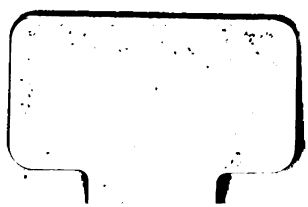

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A LETTER

TO

THE RIGHT HON. VISCOUNT MELBOURNE,

FIRST LORD OF THE TREASURY,

ON THE

LIBERTY OF THE SUBJECT

AS AFFECTED BY

THE ATROCIOUS SYSTEM

OF

IMPRISONMENT FOR DEBT.

By ROBERT GORDON, Esq.

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TO

VISCOUNT MELBOURNE.

My Lord,

In matters of moment nothing is more easy than to resolve, yet nothing more difficult than to execute. Applying this reasoning to the Bill brought into Parliament last session for the abolition of *imprisonment for debt,* it is evident a resolve was taken by the present Administration to carry that Bill; but it is equally evident that the difficulty of executing that resolve was insurmountable. It was, I grant, forwarded by the Commons, but that was fruitless: it was lost in the Lords.

It may be asked why the Bill did not pass the House of Lords with the same unanimity it did the House of Commons? The answer is ready. The members of the House of Commons were anxious to send the Bill as soon as possible to the Lords, in order that the session might not be suffered to go over without the Bill passing into a law. They well knew that great alterations must be made in it by the Lords, and, consequently, it mattered

little in what state it was sent to them. The Lords, on its being laid before them, found it so full of faults—so full of defects in all its enactments, and the time so short for entering into an examination, that they could do nothing with it, and that the only alternative they had, was to postpone the consideration of it to another session.

It is a singular circumstance, and one entitled to grave consideration, that neither the Members of the House of Commons, nor yet those of the House of Lords, ever discovered that the Bill was founded on a principle that had no existence, nor by any art could ever be made to have an existence. The Bill proceeded upon the assumption that "*imprisonment for debt*" was founded upon law—that it was bottomed upon some Act of the Legislature; when, in fact, the most ingenious man living could never frame a Bill that could even be discussed, much less passed into a law, authorising "*imprisonment for debt.*" This truth, however palpable, does not appear to have struck even any of those able writers who have so generously laboured to put an end to the inhuman practice. They have all written under the impression, that though the practice was in the last degree inhuman, it nevertheless was legal—that it was supported by some positive law. It has been justly remarked by a celebrated writer that—"the long habit of not thinking a thing wrong, will always give to it a superficial appearance of being right." It is thus with the inhuman practice of "*imprisonment for debt,*"—it had so long continued, and had been so long, so intensely, and so earnestly looked at, without a

single doubt having been entertained of its legality, that it grew, like many other atrocious practices, into a fixed and regular system.

During the reign of the borough-mongers in this country, nothing was more common than to see Bills brought into Parliament by influential members for their own personal objects, under the specious pretext of *regulating* certain practices that had been found oppressive to the subject. All the tyrannical statutes on the statute book, and they are not a few, owe their presence there, to those "*Regulating Bills*," if they may be so called. To one of those "*Regulating Bills*," are we this day indebted for the inhuman practice of "*imprisonment for debt.*"

It is curious to see by what smooth and subtle means tyranny is introduced into a state, and made to wear even the aspect of a boon to the community. Thus the preamble to the "*Regulating Bill*" that first fastened the inhuman practice in this country, commenced as follows:—"Whereas "great injuries frequently arise to the good people "of these realms from the mode now adopted of "arresting a man for debt; be it therefore enacted, "by and with, &c., that from and after, &c., it shall "not be lawful to detain or keep in custody any "defendant after an arrest is made, if he be pre-"pared to find good and sufficient bail for the "debt and costs."

Now this statute, takes for granted that there existed a *prior* statute, legalising the arrest: but if such had existed, the statute just quoted would have referred to it, and made its enactments the

debt is contracted, it is a harmless act—this must be acknowledged; and if so, what is it that could *subsequently* convert it into a crime? An act innocent in itself cannot, by any vegetative process known *as yet* to the world, *grow* into a crime. Besides, if such vegetative process was known, it must affect all debts, indiscriminately; the period of *a debt* arriving at that stage when it becomes *a crime* must be fixed and determined, and must equally extend to all debts without distinction. And as *debt* is the *crime* which constitutes the person who owes it a *criminal*, as soon as it arrives at that stage when it *grows* into a crime, the debtor, or *criminal*, may then be fairly prosecuted.

But is this just and fair rule punctually and impartially observed? No, by no means; there is no time specified for the *debt* to *grow* into *crime;* and thus some creditors, or *accomplices*, will commence their prosecution in six hours—and some again, not for so many years, and this at the election of the creditor, or *accomplice*, himself.

Under the criminal code, when an *accomplice* turns king's evidence—that is, turns *informer*, he prosecutes, not for himself but for the crown, and then the prosecution runs thus:—"The King, at the suit of A. or B., &c."—but in the inhuman practice of "*imprisonment for debt*," it is the *accomplice* himself that prosecutes—and prosecutes for himself, and for his own sole and exclusive benefit. He is allowed by the system to be prosecutor, witness, judge, jury, and executioner in his own case. He can commit his victim to prison—he can keep him there; he can insult, degrade, and plunder him

while he is there; he can do more—he can violate his wife, his sister, his daughter;—and during all these injuries there is no earthly power to control or restrain him! Throughout the whole of those proceedings the magistrate never appears;—he is himself a magistrate—and what is still more extraordinary, a self-constituted, and consequently, an irresponsible magistrate.

This, I am aware, is a grave assertion to make in a country anxious to be viewed as a country famous for its love of liberty;—but I shall state the procedure of a prosecution instituted by a creditor, or *accomplice*, against his victim, and then leave it to your Lordship's own candour to say if my delineation of it is not correct.

The first step the creditor, or *accomplice*, takes in order to bring his victim into his grasp, is to swear a *debt* against him. The following is the form of the affidavit, varying only in the sum and date, as the case may be:—

"In the King's Bench,
"*A.* against *B.*

"*A.* maketh oath and saith, that *B.* stands indebted to him in the sum of twenty pounds.

"*A.*

"Sworn before me, this —— day of ——, 183
——, *Commissioner.*"

On taking the foregoing affidavit to an office in the Temple, the creditor, or *accomplice*, receives, after swearing it before, not a magistrate, but a "Commissioner for taking Affidavits," a slip of parchment, of which the following is a copy:—

"William the Fourth, by the Grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the

Faith: To the Sheriff of ——— Greeting. We command you, ————, that you omit not, by reason of any liberty in your Bailiwick, but that you enter the same and take ———— if he shall be found in your Bailiwick, and him safely keep until he shall have given you bail, or made deposit with you according to law in an action of debt, at the suit of ————, or until the said ———— shall by other lawful means be discharged from your custody. And We do further command you, that on execution hereof you do deliver a copy hereof to the said ————. And We hereby require the said ———— to take notice that within eight days after execution hereof on him, inclusive of the day of such execution, he should cause Special Bail to be put in for him in Our Court of ———— to the said action, and that in default of his so doing such proceedings may be had and taken as are mentioned in the warning hereunder written or indorsed hereon. And We do further command you, the said Sheriff, that immediately after the execution hereof, you do return this Writ to our said Court, together with the manner in which you shall have executed the same, and the day of the execution hereof; or that if the same shall remain unexecuted, then that you do so return the same at the expiration of four calendar months from the date hereof, or sooner if you shall be thereto required by order of the said Court, or by any Judge thereof. Witness ———— at Westminster, the ——— day of ———— one thousand eight hundred and thirty-——."

This he takes to the sheriff, and on delivering it, receives from him a warrant, directed to two or more of his men, whom he designates his "officers."—In that warrant those officers are "commanded to take *B.*, if he is to be found in his bailiwick," &c.

I shall put a few questions here; they will enlighten. And first, who is "*Ellenborough*"?—is he a magistrate?—and if he is, on what authority does he give an order to the sheriff to take "*B.*" into custody? On what charge or accusation does he venture to give an order to the sheriff to deprive a British subject of his liberty? There is no charge or accusation in the affidavit delivered to the "Commissioner for taking Affidavits." Nay, from

the very wording of it all idea of a charge or accusation is excluded. The affidavit states, in distinct and positive terms, *a debt*: if it is *a debt*, it is not *a fraud;* and the swearer in this case deprives himself for ever, by the language of his oath, from making anything of it but *a debt.*

The question which naturally arises here is, Will the sheriff deprive a British subject of his liberty on the authority of a "*slip of parchment,*" signed by nobody, founded on an oath containing no one charge or accusation whatever—for *debt* is neither a charge, nor an accusation? The laws of England declare, and reason supports the fact, that no subject shall be deprived of his liberty but for some specific *crime,* proved before a magistrate, by one or more credible witnesses. And the warrant of such magistrate must set forth the *crime* with which the accused stands charged—the time it was perpetrated—the name of the prosecutor—and also the names of the witnesses by whose testimony his allegations will be supported;—and which "warrant" must bear the magistrate's actual and bonâ-fide signature. Reverting to the "*slip of parchment*" that has the name of "*Ellenborough*" on it, I would again inquire, is the "*Ellenborough*" there meant, a magistrate?—and if he is, is the signature on that "*slip of parchment*" his actual and bonâ-fide signature? These are grave questions. If he is not a magistrate, and the signature on the "*slip of parchment*" be not his actual and bonâ-fide signature, I would not take on me the responsibility he has incurred by countenancing the issue of such

an instrument for all the treasure in the Bank. I would not, by any means, be supposed to insinuate that he accepts of money for such "an instrument" —that is, that he *sells* it; no, by no means; the countenancing its issue is a responsibility quite sufficient for any individual to incur, without the additional responsibility of making money of it! But it cannot be sold; who would purchase a forgery? A printed signature is a forgery—a palpable forgery; and the signature of "*Ellenborough*" on the "*slip of parchment*" is printed. A man can be as decidedly prosecuted for passing and receiving money for a forgery on himself, as he can for passing and receiving money for a forgery on any other person. A forgery, is a forgery; and the crime of passing it and receiving money for it, is not lessened by its being employed as an instrument for depriving a British subject of his liberty without cause, or colour of cause.

But are these all the dark and distorted features that belong to the "*slip of parchment*" with the name of "*Ellenborough*" printed on it? Assuredly not. A feature still more dark and distorted than any of those which I have described, remains to be noted:—it is the daring use made of the sacred name of the king. Does the history of this country present a parallel case of the first magistrate being made a party to a system of plunder and oppression of which he knows nothing—and of which he has never been apprised? The king, who, as Blackstone says, "never appears but in acts of "grace and favour—diffusing peace and happiness "amongst his subjects"—is, in this "*slip of parch-*

ment" with the name of "*Ellenborough*" printed on it, made the destroyer of his people—the wrecker of their fortunes—the instrument of their ruin! A king, too, than whom no king that ever reigned has done more to win and hold the affections of his people. Of our king it may be truly said, that if ever there lived a monarch whose regal and constitutional acts rendered him dear to his country—that monarch, is our monarch—*William the Fourth!* Yet is this paternal and justly honoured king made, in this "*slip of parchment*" with the name of "*Ellenborough*" printed on it, to command his sheriff to seize and incarcerate his subjects without the slightest charge, or colour of charge, being brought against them, and keep them, without trial or inquiry, in a state of bondage, misery, and destitution, to the end of their lives!

Upon what grounds, it may be asked, does the sheriff feel himself justified in obeying so inhuman a command? The sheriff, in this country, is invariably selected from the higher ranks, and, for his intelligence, independence, and principles. Besides, the sheriff is not, from his official character, the proper officer to execute the commands of the king. He is not a magistrate, neither does he assume the powers of a magistrate. But it may be said, that they are not the commands of the king that he executes, but those of a court of law. Be it so; but is his responsibility the less on that account? A court of law is a building composed of bricks and mortar, and thus, inanimate, can issue no command. A court of law, is one thing, and the persons filling the office of administering the laws

in it, quite another thing. For a public functionary to think of escaping from his responsibility for any criminal act he might be guilty of, by pleading that such responsibility was divided among so great a number, that individuality was lost in the crowd, is one of those iniquitous apertures through which the judicial villain invariably hopes to escape:—but the time has arrived when such a phantom can no longer delude. "If a thousand men, bent on murder, plunge their respective daggers into the heart of their victim, though each might plead that the murder would have been perpetrated without his assistance—still, nevertheless, they are each and all equally, and in the same degree, guilty of the murder." In murder there are no accessaries—all are principals.

It is thus with the atrocious system of "*imprisonment for debt,*" which I am analyzing:—as far as individual responsibility is concerned, the principle is precisely the same in both cases: there is not a person, from the creditor, or *accomplice,* as I have more properly styled him, who first takes his scrap of oath, to the "*Commissioner for taking Affidavits,*" down to the sheriff, inclusive—that finally incarcerates the victim (a procedure which takes in ten, sometimes a hundred, according to the number of spies employed on the occasion), that is not equally and mutually guilty of all the atrocities with which the system abounds.

It is not because an innocent man, on being torn from his family and hurried within the four walls of a prison, survives the immediate consequences of the murderous blow, that he is therefore not a

murdered man. "It is not the *tensity*," as a celebrated writer justly remarks, "but the *duration* of pain that sends a man to his last home." He would be an admirable soother of the human conscience who could prevail on the poisoner to believe, that the turpitude of the deed was lessened in proportion to the length of time his poison took to destroy.

A prison is, to an innocent man, the first step to the grave. A prison is a grave: it has all the horrors of a grave—without its repose. An innocent man, in prison, may justly be said to have commenced his journey to death!

But to proceed with the analysis; for it could not be too deeply penetrated. Has the sheriff, after he has seized the person of one of his Majesty's subjects, obeyed the entire of the commands given to him in that "*slip of parchment*"? No, by no means; he is there, further commanded "to keep him safe, "so that he may have his body before the Justices "at Westminster on a certain day named, *there*, to "answer to *A.*, *in a plea of trespass on the case.*" Questions of vital interest present themselves here. And first, in what place can the sheriff, who is no gaoler, detain one of his Majesty's subjects for a single hour—much less an indefinite period, without subjecting himself to an action for false imprisonment? The sheriff can have no place for confining his Majesty's subjects in; no magistrate has ever yet stretched so far into the field of idiotism as to commit one of his Majesty's subjects to the custody of the sheriff. When a magistrate commits a man to prison, such man is thenceforward

the king's prisoner; the prison he is committed to, is the king's prison. The idea of a sheriff, or any other public functionary, having a prison, in this or any other part of the king's dominions, is so outrageously absurd, that there is no reasoning upon it, with any degree of patience.

But to these observations it may be objected, that the "*slip of parchment*," simple and unmeaning as it may appear, is, nevertheless, the "King's Writ." Be it so. Then my argument becomes, if possible, still stronger and more conclusive; for the person arrested by virtue of it, must be brought to the king's prison,—and to no other prison. The king, as first magistrate, can neither hire, nor let a prison, nor any part of a prison. And it is for this reason that we hear with astonishment the words "sheriff's prison"—"debtors' prison"—"the debtors' side" of such, and such a prison, &c. &c. It would be just as rational to say, the "jugglers' prison"—the "scramblers' prison"—or, the "jugglers' side" of such, and such a prison, or the "scramblers' side" of such, and such a prison—one is just as intelligible as the other.

Nothing can give a clearer view of the folly, not to say infamy, of this prison work, than the fact, that in the Tower Hamlets' Court of Requests no order is ever given to seize the body of a debtor; not because a debtor ought not to be seized, but because there is no prison in the Tower Hamlets to send him to, after he is seized. It is not a little singular that it never suggested itself to the illustrious judges of that court, to apply to the king for permission to convert a part of the Tower to the

confinement of debtors. That object once effected, we should then hear of the "debtors' side of the Tower,"—a sound far from displeasing to the sensitive ears of amiable judges, and amiable creditors. And, in truth, there would be nothing new or unique in the matter: the Tower is a prison belonging to the king—it is the king's prison, and the converting a part of it to the purpose of confining debtors in, would be only in accordance with a custom which has long, and to a very considerable extent, prevailed.

Those who have mixed much with the world, and viewed with an inquiring eye the various incidents of life, must have observed, that wherever there existed *injustice*, there was always and invariably bound up with it, *absurdity*. In fact, *injustice* and *absurdity* are inseparable. Nothing can illustrate this truth more clearly than the amphibious character of some of our prisons. There are in those to which I allude, two sets of prisoners; one committed by the king, or by persons to whom the king has delegated his power, charged with some offence; the other, committed by "*informers*," under the assumed name of "creditors," charged with no offence! This is bad; but it may be said that the proceedings taken subsequently, with respect to the last-mentioned class of prisoners, will set all right—that each class will have equal and ample justice meted out to it. To ascertain this point with the precision and accuracy its importance demands, it will be necessary to enter into the routine, if I may so express myself, of those "proceedings" respectively—and leave

the comparison to say how far the assertion is or is not correct.

And first, as to the course adopted on a prosecution under the criminal code. Under this code, from the moment a charge is preferred, which it must be before a municipal magistrate, and sworn to, the law takes the accused under its special protection. The law does more, it treats the accused as innocent, and continues to treat him as innocent up to the hour of his conviction. The very commencement of a prosecution under this code, constitutes a pledge for the integrity and impartiality of the subsequent proceedings. The accuser and the accused are both present, and confronted each with the other. The accused can examine, cross-examine, and re-examine his accuser; and if his accuser has been his accomplice, and, as king's evidence, turned "*informer*," his evidence must be corroborated. And throughout the whole examination, a single question cannot be put to the accused touching the charge against him; on the contrary, the magistrate, with a humanity peculiar to the English, cautions him not to say or answer any question whereby he might criminate himself. On a strong case being made out—and it must be a strong case—the magistrate commits him to prison, not to the sheriff's prison, but to a prison belonging to the king—the king's prison.

The document committing the accused to prison, "there, to remain, till delivered by due course of "law," is an important document; and it is so, because, the magistrate is responsible for the act, and its consequences. It sets forth minutely the

charge on which he ventures to incur that responsibility; it bears his actual and bonâ-fide signature, together with the day, month, and year of its issue; and is directed, not to the sheriff, but to the gaoler, or his assistants. This preliminary step over, the next stage is the *indictment*, which is sent up to the grand jury, who enter into the whole of the charge, summon witnesses, examine and cross-examine those witnesses, invariably looking with a more than suspicious eye on the accuser; and if, after due deliberation, a "true bill" should be found, the accused, even in that case, is not finally cast. He must be tried by another jury, composed of twelve members, and presided over by a judge (not a commissioner). A certain number of those twelve, the accused can peremptorily challenge, and as many afterwards as he can shew are prejudiced, or in any way incapacitated to sit as jurors. A copy of the indictment, together with a list of the witnesses that are to sustain it, is sent to him in sufficient time to enable him to prepare for his trial. This affords him an opportunity of employing his friends in searching out the private history of each of those witnesses. All that is blameable or disgraceful in their lives, or that can in any degree invalidate their testimony, is carefully and assiduously collected; and when brought into court and placed upon his trial, he can examine, cross-examine, and re-examine his accuser; and during the whole of this searching examination, a single question cannot be put to himself, touching the charge against him. Nay, the magistrate, on the very onset, cautions him not to say or answer any

question which could, in the most remote degree, tend to criminate himself. If there should be found among those witnesses an accomplice or *informer*, he can object to his evidence being received, on the grounds of the infamy invariably attached to the character of an *informer*, and insist upon his evidence being rejected altogether, or at least corroborated by the testimony of one or more persons of known respectability.

These preliminaries gone through, the trial proceeds, till the prosecutor declares he has no more evidence to produce. On this announcement all eyes are turned on the judge, to hear, what is termed, the summing up. Does the judge, on this occasion, abuse the accused? Does he insult, degrade, and browbeat him? Does he call on him, with dictatorial insolence, to tell him all his most hidden thoughts and secrets—where he dined on such, and such a day—where he slept on such, and such a night—and where he lived at such, and such a time? And after having, by audacious threats and interruptions, obtained information on all these points, does he go still further and compel him to disclose the various means by which he eluded, for so long a time, the officers of justice? But, above all, does he, in the presence of the bar, the audience, and the jury, dictate the verdict, by declaring that, "*the case, as unfolded at the trial, "was one of the worst he had ever met with*"? Far, far otherwise: he is calm and dignified. He hears with patience what the accused has to offer in his defence, and in his address to the jury dwells with a pleasing emphasis on all the points which ap-

peared on the trial in the slightest degree favourable to him;—finally, calling upon the jury, by virtue of the oath they had taken, to dismiss from their minds all prejudice against the accused, and directing them; wherever they entertained doubts, to lean to the merciful side, and give the accused the benefit of those doubts.

Should, however, the jury, after having heard all that could be said for and against the accused, find him guilty, is his fate then sealed? is his last hope destroyed? No, no such thing—to the immortal honour of our wise and beneficent forefathers, there is a fourth tribunal—the *king in council*—where, if it should appear fair and just that mercy should be extended to him, that mercy he will most assuredly receive.

The trial, of which I have here given the outline, is one under the criminal code. All writers on jurisprudence agree in declaring, that there are but *two* codes—the civil, and the criminal; which *two* codes, have been found fully competent to the important task of arranging every occurrence that could take place in a civilised society. There never could be a *third* code; the art of man could not invent a *third* code; a *third* code could not coexist with the *two* already established. But if even such a code could be invented, it could have no distinct or exclusive character: it would partake of both, without belonging to either; and it is this distinctiveness that forms the safe-guard of society. To preserve this distinctiveness has been the grand object of every lawgiver since the days of Solon:—let but that distinctiveness be once lost—

let but the barrier—the jurisdictions that belong to the *two* codes—the civil, and criminal—be but once broken down, or even in the slightest degree infringed upon, and tyranny, in all its horrors, and in every shape, breaks suddenly and irresistibly in upon us. It was an attempt on the part of the Tories, in 1798, to break down that "*barrier*"—and the monster, "*constructive treason*," to which that attempt gave birth—that placed some of the most virtuous citizens in our country—Horne Tooke and others—on the very verge of the scaffold!

Should this terrible warning be obliterated? Does it not point out to the society the necessity of watching, with unceasing vigilance, the hourly operations of both codes? The criminal code, from its being susceptible of modifications, requires to be more closely watched than the civil code, which admits of none. A man, for instance, convicted under the criminal code of slaying, may, according to the circumstances attending the act, have his sentence light, and his punishment commuted. He may, if he received great provocation, be fined a shilling and discharged; and, on the other hand, he may, where there was no provocation, be transported for life. Thus there are shades in guilt, but none in innocence. No man can be more innocent, or less innocent, than innocent. No man can be charged with an offence, to the committal of which no penalty is annexed, under the civil code.

The principle here laid down is solid: it is supported by the opinions of Puffendorf, Grotius, Vatel, and all other authors that have written on

jurisprudence. There are but *two* codes—the civil, and criminal, under neither of which does the atrocious system of "*imprisonment for debt*" fall. That it does not fall under the criminal code, I have proved beyond all question; and it would be but a mockery of common sense to enter on the task of shewing, that it does not fall under the civil code.

The best way to deal with this atrocious system, since it has no common parent, is, to expose and analyze it; and when thus laid open, and stripped of its facings,—all its screws! all its ropes! all its pulleys!—all its dark and damning features will then stand out in round and bold relief before us.

Some progress has already been made in this analysis—but it must be made perfect. No atrocious system was ever yet destroyed but by cutting through it, fibre by fibre, to the very centre, and the centre itself.

In order to give a clear and comprehensive view of this atrocious system, I shall adopt the same course with respect to its procedure, that I did with the trial under the criminal code, which I have just detailed—that is, commence at the first step, and proceed step by step to the final close.

The first step is the scrap of writing, technically styled the "*affidavit of debt.*" The creditor—or rather I should say the accomplice, after he has turned "*informer,*" takes this "*affidavit of debt,*" not to the magistrate, who alone is authorised to administer an oath—but to a clerk in the Temple, dignified with the title of "*Commissioner for taking Affidavits,*"—where he swears it, deposits it, and

receives, on the strength of it, an order, in the name of the king, to the sheriff, to seize and incarcerate the person named in his affidavit, as the person by whom the *debt* he swears to, is due.

Who will say the finger of Providence is not here! Who will say it is not on this horrible attempt to incarcerate, and for life, an *innocent* man? Here is an "*informer*," who, of all the infamous and abandoned characters that exist, or could exist in a civilised community, decidedly the most infamous and most abandoned, rushing forward, in the fullness of his character, to hurl down destruction on his victim, stopped in the very onset—and stopped too, by his own act! What a view of the Supreme! A villain—a villain of the first water, tearing from under him the foundation of a fabric, which, when carried up and roofed in, was to carry misery, desolation and death into the bosom of an innocent and unoffending family!

And what is the nature of this "*informer's*" oath?—what does he swear, with the view of effecting the destruction of his victim, and his innocent and unoffending family? A *debt:* he swears that his victim owes him a *debt.* Be it so; what then? Does he swear that he set that *debt* in his garden, his orchard, or his shrubbery, and by watering and nourishing it, and defending it from the winter's blast, it *grew* into *crime?* No; no such thing. He swears, and positively, that his victim owed him *a debt*—that he still owed him that *debt,* and that, up to the hour he made that affidavit, he still continued to owe him that *debt.* By that affidavit he establishes, and incontrovertibly the fact,

of his charge against his victim being a *debt*, and nothing but a *debt*. But is this all that his affidavit establishes? No; far from it: his affidavit establishes the still more important fact, that he, himself, had been an accomplice in the act of contracting that *debt*, and, consequently, was then actually playing the part of an "*informer*." This species of treachery is not new—to first tempt, and then betray, is as old as the ocean.

It is very evident the person that suggested the "*affidavit of debt*," (for it was not originally thought of) never calculated on the grave matter that was one day likely to result from it. The world were taught to believe, when it was first introduced, that it was a boon, presented with a view to check oppression; but the truth is, it was introduced for no other object than to form a pretext for creating an additional office in the law courts, and as an excuse for exacting some new *fee*. As to its checking the atrocities of the system, there was no possible way by which it could do other than increase them. The "*Commissioner for taking Affidavits*" asks no questions: the "*informer*" may, for what he knows or cares, be one of the vilest villains alive. In confirmation of this truth, I have now in my actual possession incontestable proof of no less than seventeen (and there may, and no doubt are, as many thousands) "*affidavits of debt*" having been sworn by *convicted felons*; and proceedings taken on each, and *victims* to those proceedings lying at this identical moment languishing within the four walls of a prison!

But let, for an instant, the reverse of this terrific

picture be supposed: let it be supposed that the "*Commissioner for taking Affidavits*" exercised a salutary caution, and closely questioned the "*informer*" previous to swearing him, (a duty, by the bye, which he was bound to perform,) upon his character, his habits, his principles, and his mode of life; but, above all, upon the motives which actuated him in becoming "*informer*"; and coming forward, at that late hour, to impeach his fellow-criminal. What could such questions, however laudable the putting them might be on the part of the "*commissioner*," lead to? What good could they effect? Besides, in nine instances out of ten, the "*informer*" swears his "*affidavit of debt*," miles from the office where the "slip of parchment," with the name of "*Ellenborough*" printed on it, is sold. The "*informer*" may reside in Scotland, Ireland, the East Indies, the West Indies; but what do I say? he may even reside at Sydney, Van Dieman's Land, or any other of the penal colonies. No inconvenience is suffered, by the *abettors* of the atrocious system of "*imprisonment for debt*," by his absence; he has only to send his "*affidavit of debt*" from wherever he may be, to the office in the Temple, and those "*abettors*" will eagerly and cheerfully work the machinery (which is ready set up for him) to whatever point it might be desirable to arrive at.

It is true, the "*informer*," appearing as a witness (for he could not appear as a prosecutor under the criminal code), would have some pungent questions put to him before he could procure an "*order*" to the *constable*, (to the *constable*, I say, for the sheriff

is no *constable, unless he choose to act the part of one,)* to arrest and incarcerate his accomplice. "A warrant," says Hawkins, "is a judicial act, "and cannot be granted but on examination into "the fact"; and common sense supports this rule. But allowing that the "commissioner" did examine into the fact, what would he find the fact to be? He would not have far to look; he would have but to turn to the "*affidavit*" which had just been sworn before him, and there, he would see, that "*debt*" was the "*fact*"! Well, then, on ascertaining that "*fact*," what would be his next duty? His next duty would unquestionably be to grant a *warrant;* but to whom would he direct that "*warrant*"? Not to the *sheriff*, assuredly; he might as well direct it to the king, the king being, in truth, and in fact, the *sheriff*. But does the "*Commissioner*" issue a "*warrant*"? No; he issues in its place an "*order*" to the *sheriff* to execute. Now the idea of a magistrate—and a magistrate he must be, or he could not administer an oath—sending an "*order*" to an exalted public functionary (the sheriff) to execute, is so preposterous, that there is no reasoning upon it. The sheriff, of all other public functionaries, is the last that could execute an "*order*" or "*warrant*," other than to hang a convicted criminal. The sheriff is, no doubt, appointed specially to execute—but he is so appointed under the criminal code; he is, in fact, an executive member of the executive. The king is the sheriff; the law decides, and the king, by his deputy the sheriff, executes. But, *the law must decide, before the king or his deputy can execute.* And

in no case can the executive execute against the *person* of the subject, but under the *criminal* code.

This truth is exemplified in the course adopted with respect to judicial proceedings under the civil code. There, on final judgment being pronounced, an order issues from the court, signed (not *printed*) by the Chief Justice in person, to the sheriff, commanding him to levy on the goods and chattels of the defendant, the amount of such final judgment. But, since the beginning of the world, to the present day, no instance could be found of a court of law issuing an "order" to the sheriff, commanding him to levy the amount of a "final judgment" on the *flesh* and *blood* of the defendant! The goods and chattels of the defendant must be sold, to satisfy the *debt* due to plaintiff; what could not be *sold* by the sheriff, cannot be *seized* by the sheriff. Besides, even if the *flesh* and *blood* of the defendant could be sold by the sheriff, it would, being *perishable property*, have to be sold off the instant it was seized. No sheriff in his senses, would risk the consequences of holding over *perishable property* one hour after it was seized.

On this showing it may be fairly asked, what would the sheriff do with one of his Majesty's subjects, if he seized him according to the commands given to him in the "*slip of parchment*"? He is, no doubt, commanded in the same "*slip*," to "him *safely keep*, so that he may have *his body* "before the justices at Westminster, on a certain "day, named"; but the "*slip of parchment*" does not particularise *where* the sheriff is to keep him, or at whose expense; hence it is evident, that the

abettors of the atrocious system of "*imprisonment for debt,*" originally intended that, being, as I have before said, *perishable property,* he should, immediately on being seized, be sold off. Or, if there were more "*informers*" than one, pursuing and making claims on him, he should, instead of being sold off whole as he stood, be *cut in pieces* by the sheriff, in order to enable him to divide, as far as the "*pieces*" would sell for, the sum total among the "*informers.*"

That this was the original intention, is certain; neither is the idea new, it was at one time adopted by the Romans. Montesquieue, in his "*Spirit of Laws,*" tells us, in speaking of the Romans, that anciently, *creditors* were allowed to either "*sell*" or "*cut in pieces*" their *debtors.* And there can be no doubt of the fact; for, in our own time, and in our own country, which we call civilised, and which we describe, as a country governed by a constitutional king, and laws founded on reason and justice, we find, that once a *creditor* turns "*informer,*" there is no crime, in the black catalogue of crimes, that he is not prepared to commit. Perjury, robbery, murder, constitute his daily practice: and if he does not proceed the entire length of *selling,* or "*cutting in pieces*" his victim, it is because the humane and honest part of the community would not endure it—they would flay him alive!

But has that able author, Montesquieue, gone no further than merely to record the inhuman practice among the Romans, of allowing *creditors* to *sell,* or "*cut in pieces*" their *debtors?* Assuredly he has; for, if he has recorded the inhuman practice, he has

also recorded the terrible consequences that flowed from it. In a work, little inferior to his "*Spirit of Laws*," he tells us that, "in Rome, the severity of "the laws against *debtors* laid the foundation stone "of those measures, which subsequently under-"mined and finally overthrew that gigantic and "flourishing empire." And after Montesquieue, our own elegant and enlightened countryman, the late Lord Chesterfield, in one of his celebrated letters to his son, speaks thus :—"Fourteen years after the "establishment of consuls, the Roman people re-"fused to enlist themselves on military service "unless their debts were *cancelled.* And *this gave "the first idea of a dictator.*" A thousand—nay, ten thousand volumes, of a thousand pages each, could not say more on the atrocious practice of "*imprisonment for debt,*" than is to be found in the two foregoing short, but expressive abstracts. That "*imprisonment for debt*" was the destruction of the Roman empire, we have the word of all the authors that have written on the affairs of that nation, from the time of her first rise, to that of her final fall. But the Roman empire, is not the only empire whose destruction the atrocious practice effected. It effected the destruction of modern France : it produced the revolution of 1798 in that country, the sanguinary character of which, has no parallel in the black and bloody history of revolutions. The "*lettre de cachet*" of those days—was the "*writ of capias*" of our days. And as to the term, "*Bastille*,"—harsh as it may sound on our ears,—every place, house, or prison where an innocent man is confined, is, to all intents

and purposes, and in every sense of the word, a "BASTILLE"!

But to proceed with the analysis. The "*slip of parchment*" says that, the "sheriff is commanded "to him (the victim) safely keep, so that he have "his body before the justices at Westminster, on a "certain day named;" but it does not say in *what place* the sheriff is to keep his victim, till the day he is commanded to carry him before the justices at Westminster, arrives. That point is left to the discretion, caprice, or cupidity of the sheriff himself. And so long as the sheriff holds himself responsible for the close custody of his victim, or for the *ransom* set upon his escape, or liberation, it appears to have been a matter of perfect indifference to the abettors of the atrocious system, in what place he was kept, whether in a cavern, dungeon, dog-kennel, or pig-house, so that he was kept.

It would be extremely desirable to ascertain who the parties are, who are represented in the "*slip of parchment*" by the word "*We*"; the term "*We*" says nothing, unless it is accompanied by the actual and bonâ-fide signatures of the persons meant by it. It is dastardly—cowardly in the last degree, in any man, to give a command to have an individual seized and incarcerated without at the same time signing the document in which such "command" is given. It is a blow in the dark! It is the blow of an assassin!

But, say the abettors of the atrocious system of "*imprisonment for debt*,"—"We acknowledge, we "always did acknowledge, the horrors of the sys-"tem; we never denied those '*horrors*': on the

" contrary, we denounced them, both in and out of
" Parliament: no one could speak louder or more
" energetically against them than we have done.
" Various are the expedients which we recom-
" mended for adoption, with the view of *softening*
" and rendering *endurable* those ' horrors.' It is
" with this amiable view we suggested that power-
" ful check on oppression and plunder, the ' *affi-*
" *davit of debt.*' Finding, however, that this
" ' *check,*' all-powerful as we alleged it would be,
" did not bear out our description of it—that the
" prisons were still filling—that men were found
" to swear anything—and, that sentiments of reli-
" gion and honour were but poor barriers against
" the irresistible temptation of lucre and revenge;
" we laboured, and unceasingly, till by dint of per-
" severance and sound argument we caused to be
" passed that splendid monument of legislative
" wisdom and justice, the ' *Insolvent Debtors' Act,*'
" or, as it is more humanely called, the ' *Act for*
" *the Relief of Insolvent Debtors.*' Great and
" mighty as was this achievement, did we stop
" there? No; we proceeded, and gave the ' *Act*'
" full developement, by establishing a Court, wherein
" the law which that ' Act' laid down, might fairly
" and efficiently be administered. We went still
" farther—we confined the duties of that ' *Court*'
" to the adjudicating, and *giving judgment* on, the
" various clauses and enactments contained therein.
" We did more; we excluded from it every other
" species of law, and law-suit, and confined the
" business to be transacted in it, to the concerns of
" ' *insolvent debtors,*' exclusively. This, we were

"fortunately enabled to do, from having persons "in both houses of Parliament *learned in the law*, "and well versed in such matters. By this exclu- "sive mode, we kept completely clear of that "*haberdashery* course adopted in those 'Courts,' "falsely called the 'Superior Courts.'"

Before entering on the subject of this "Court"—this redoubtable "Court"—this "Court" with many names—with many *aliases*—the "*Insolvent Court*" —the "*Insolvent Debtors' Court*"—the "*Court for the Relief of Insolvent Debtors*," &c. &c. &c., it will be right to state, that this letter, though nominally addressed to you, my Lord Melbourne, is nevertheless intended for the public generally—it is intended for every individual member of the British community—nay, for every individual member of every community of every country on the face of the earth, where the atrocious system of "*imprisonment for debt*" exists.

To begin, then, with the subject of this "Court," I would say that the annals of the civilised world do not present its equal. Before however the most distant idea can be formed of this "Court," it must be *dissected*—it must be *dissected*, and unsparingly, in all its parts—separate and minute —and it must be so *dissected*, in order to come at the *hidden springs* by which its various and multifarious ropes and pulleys are worked.

And first—this "*Court*" purports to have been instituted for the "*benefit*" of "*insolvent debtors*": now, if an individual be really insolvent (and he would have a discerning eye that could point him out in the society), it is not a "*Court*," but a *bank*

or a *treasury* that could confer on him a "*benefit*"; it is *money* he wants, and not *law*. *Law*—that is, *law* as it is here with us in England, could have no other effect on him than that of confirming his insolvency.

This truth is verified beyond all question by the fact, that a man must be ruined by the *law*, that is, by the *law* as it is here with us in England, before he is permitted to take the "*benefit*" (don't smile, my Lord Melbourne, at the way in which the word "*benefit*" is prostituted in this place—it is no smiling matter) of the "*Insolvent Act*"; he must, I say, be ruined;—he must be within the walls of a prison, "*and not in the Rules or Liberties thereof*" (what! my Lord Melbourne, smile again, at the prostitution of the words "*Rules*" and "*Liberties*," as applied to a *prison!* Ah! my Lord Melbourne, again I tell you it is no smiling matter), before he can be permitted to take the "*benefit*" of the "*Insolvent Act.*" And he must be deposited there by virtue of the English "*Lettre de cachet*"—that is, by the English "*Writ of capias*,"—worked upon, screw by screw, till it reached the "*Writ de satisfaciendum*,"—the effect of which is, to rivet the *chains* by which he is supposed to have been previously but slightly held. The "*Writ of capias*" seizes and incarcerates him, but admits of "*bail*"; but the "*Writ of capias ad satisfaciendum*" has a different effect. On the force and efficacy of this *screw*, the victim must remain, nailed to his cell—and there, he must remain—"*without bail or mainprize*" (such is its tenor), nailed, *for life!* unless he make "*satisfaction*" to the "*informer*," by deli-

vering to him a sum of money sufficient to cover, not only the amount originally demanded for his ransom, but also the additional sum claimed for this additional "*screw*"! It was to appease the universal outcry against the effects of this horrible instrument that that splendid monument of legislative wisdom and justice, the "Act for the *relief* of insolvent debtors," was passed. So long as the "*Writ of capias ad respondendum*" was not "moved upon"—all was quiet; the victim was then in prison, on what the atrocious system, in its own peculiar phraseology, calls "*mesne process*," and could at any time, if the sum demanded for his ransom was not too large, give *bail*. I shall reserve what I have to say on the point of requiring "*bail*" from a man *charged with no offence*, till I come to speak on the subject of "*fees*," exacted in the law department, and the consequences to which the exaction of those "*fees*" never fails to give birth; and proceed at once to lay open the "*constitution*," as it is styled, of the "Court," designated "*The Insolvent Debtors' Court*."

By the "*constitution*" of that "*Court*," the first step the victim must take, in order to procure the proffered "relief," is, to prefer an *indictment*—not against the "*informer*" for *false imprisonment* and defamation, of which he could adduce glaring and incontestable proof—but, *against himself!* Nay, my Lord Melbourne, do not look so amazed at this assertion; reserve your wonder and your indignation till the tale is told—till the whole tale is told. I blame you not, my Lord Melbourne, for the display of either your wonder or your indig-

nation: it is the nature of a great and generous mind to shrink with horror on discovering ought but what is fair and just in the operation of the *law.*

But so it is, the victim does in reality, in truth, and in fact, prefer an *"indictment" against himself!* I belong, my Lord Melbourne, to that manly school which calls everything by its right name; I follow the creed of the French writer, who called *a cat,* a *cat,* and a *villain,* a *villain.* Acting on this bold and honest principle, I do then say, that the document presented by the victim to the *"Insolvent Court,"* under the imposing appellation of a *"petition"*—is nothing more or less than an actual and bonâ-fide *"Indictment."* In that *"petition"*—or, more properly speaking, *"indictment,"* the victim prays to be placed upon his trial; and, in order to give facility to the proceedings, gives in it a minute detail of all the actions and transactions of his life. And, as *debt* is the *crime* for which he is compelled, at the peril of interminable captivity, to indict himself, he sets forth in it a distinct, and specific statement of every *debt,* separately, which he might have contracted from the age of twenty-one, (or from an earlier age, if contracted for *necessaries*) to the very day on which he prefers his *"indictment";* a period which may, or may not, according to circumstances, include sixty or even seventy long and weary years! He also inserts in it an elaborate account of the property which he received on the contracting of each *debt;* the number of hats, coats, shoes, boots, shirts, gaiters, gloves, pills, plasters, &c., together with the number of the like articles he

purchased for his wife and children within the same period. He inserts more in it: he inserts in it a diary of the hourly and daily occurrences of his life—where he dined, on such, and such a day,—where he slept on such, and such a night,—where he contracted such, and such a *debt,*—where he laid out, expended, lent, or lost such, and such a sum,—nay, he inserts still more in it; he inserts in it an equally elaborate account of the number of dogs, cats, rabbits, linnets, larks, &c., which were, or are in his possession; as well as the quantity of beef, bread, greens, coals, candles, suet, rice, tea, coffee, sugar, soap, soda, potash, ginger, pepper, mustard, &c. which he consumed in his house, annually. In addition to these important particulars, he gives in it a list of his furniture, books, &c. together with an exact account of his rent and taxes, and every other species of expenditure, such as boat hire, coach hire, house cleaning, boot cleaning, &c. And again, he must insert in it a minute and circumstantial account of the daily expenses of himself and family, from the day he reached his majority, together with every debt he contracted from that interesting period, to the hour he preferred such "*indictment*": a space of time which may not only pass the statute of limitation (six years), but go on to sixty, or even seventy years! He must also state in it, specifically, any property he ever possessed from the age of twenty-one, and to what purpose he applied such particular property; and not only give up to the "*Insolvent Court,*" whatever amount may remain, but execute an instrument, designated a "*warrant of attorney,*" which enables that court to seize on all property of whatever

description he may at any future time, up to the very hour of his death, possess! Having sworn to, and filed his "*indictment*," or, as it is speciously called, his "*petition*," he has to insert the fact in the London Gazette, and all the periodical journals of the kingdom. Simultaneously with this mode of giving publicity to his approaching trial, he has to transmit to each distinct creditor a similar notification to that which he has inserted in the Gazette, and public papers,—having done all this, it becomes his duty to humbly and respectfully remain in his prison, six weeks, or longer, till an "*order*" arrives to have him brought up for examination. On being placed at the bar, he has to submit to be examined, and cross-examined, on all the various statements set forth in the "*indictment*" which he has prefered. After having been compelled to submit to this cutting—this excruciating examination,—and after having given up his all—and all he may ever to the last hour of his life possess, it is one chance to one hundred that he is not sent back to his prison under a *sentence* of imprisonment of from one to two, or even *three* long, weary, and bitter years!

Here, my Lord Melbourne,—here is a picture, I place it before you,—before you, my Lord Melbourne, who, to your immortal honour, have declared—publicly declared that, "HALF AN "HOUR'S IMPRISONMENT WAS MORE "THAN SUFFICIENT TO PAY THE "LARGEST DEBT THAT WAS EVER CON-"TRACTED."

Here, my Lord Melbourne, I say, is a picture! Here is an innocent man prosecuting himself!—

criminating himself!—swearing against himself!—and this, in order (finding no other earthly way open to him) to get released from a prison, into which, he had been unjustly, cruelly, infamously thrown!

All terrific, however, as is the picture which I have here drawn, it is but a sketch—and a faint sketch of what it could be made, if all were added that could be added;—will you believe, my Lord Melbourne—will you credit the fact, that the victim, while writhing under the lash of his "*informer*," is compelled to say, and upon oath, whether he ever before was forced, in order to regain his liberty, to pass through a similar ordeal; and this at the certain risk, if he refuse, of having his "*indictment*" not ignored,—but *dismissed*, and himself sent back to prison as a wretch, the turpitude of whose crimes was so deep and black, that no law could be found to try him! The murderer, the traitor, the violator, however black his crime, or deep his guilt, can be tried,—but not the victim who presents himself for trial before the "*Insolvent Court*"!

What is this "*Insolvent Court*"—and whence comes its rare and unheard-of power? It is not a court of justice, nor of law, nor of equity. From all the other Courts—even from the very highest, the Court of Chancery—the subject can appeal, but not from the "*Insolvent Court*,"—from that "*Court*" there is no appeal: its decrees are absolute, *final!* That a corrupt and perjured Parliament—such as our Parliament was prior to the passing of the Reform Bill, should give legislative sanction to any institution which had for its object

the oppression and plunder of the people, is not to be wondered at—but that any man, or set of men, could be found hardy enough to preside over and give effect to the operations of such an "*institution,*" is indeed astounding. We are not without strong and painful proofs of the desperate lengths to which a corrupt and perjured Parliament has gone to pander to the vices and passions of our Tory rulers. The "*Six Acts*" alone, were in themselves sufficient to consign to everlasting infamy the Parliament that passed them; yet what are those "*Six Acts,*" in point of turpitude, when compared with the Act designated "*The Insolvent Debtors' Act*"? Compared with the "*Insolvent Debtors' Act,* the "*Six Acts*" are humane, merciful, benevolent! Instead of being a corrector, it is a creator of crimes. *Impossibility* flies before it. In its penal enactments it outrages reason, and even common sense. Let me illustrate. "*Fraudulently contracting*" is one of its penal enactments;—how is this? There is no such offence as "*fraudulently contracting*"; the thing is impossible—literally impossible. If two men enter into an illegal contract, the law will relieve neither of them;—if they enter into a legal contract, the law will support both of them;—but if they enter into an inhuman contract, such, as that one shall, on a particular contingency, possess the power of depriving the other of his liberty and property, the law will punish, and with rigour, both of them. A British subject cannot part with his liberty: he can neither sell nor mortgage it, nor yet voluntarily surrender it except to the king, nor even to

the king, unless for the public service; and for that service, and that service exclusively, he is bound, by the oath he has taken (the oath of allegiance), to constantly preserve his liberty, to the end that he may at all times be ready to devote it, whenever called upon, to that service. A British subject can never forfeit his liberty, but by the perpetration of some crime known to, and defined by, the laws. And so jealous are the laws of the liberty of the subject, that they have laid it down as a decided maxim, that every man on his trial shall be considered innocent until he is proved to be guilty. And, acting up to that noble principle, they go still farther and declare, that it is better ten guilty men should escape punishment, than that one innocent man should suffer.

Now the atrocious system of "*imprisonment for debt*" moves upon a diametrically opposite principle. It considers the *contracting a debt* a *crime*,—but a *crime* only on the part of one of the contractors; and not only wholly and entirely exonerates the other contractor from all criminality or participation in the *crime*, but goes the length of allowing him to prosecute his fellow contractor; and to do so, on his own sole testimony! and on that sole testimony to convict him—*without trial*; and having convicted him, to award to him a punishment surpassing in severity any that has ever yet been resorted to in this country, even for the blackest crimes,—*perpetual imprisonment!* What is death, to *perpetual imprisonment?* A mercy—a generous, humane mercy.

But it may be asked, will not the executive interfere,—will it not interfere in a case so pregnant

with horror and reckless brutality? No; the executive knows nothing of his victim; and if it even did, it could do nothing for him. The whole power of the King, of his Ministers, and of his Judges, acting conjointly, shall not be able to mitigate his sentence, or shorten his imprisonment, by one hour, without his (the prosecutor's) actual and bonâ-fide consent. There is, it is true, one chance of *altering*, but none of *softening* his condition. He may change, but not lessen his torture. He may petition the "*Insolvent Court*"; but it so happens that the "*Insolvent Court*" may, from the uncertainty of its "*Judgments*," and the still greater uncertainty with which those "*Judgments*" are obeyed, prove as heavy a grievance as that which it was resorted to, to remove. Besides, the constitution of the Court, and the Act of Parliament, by the enactments of which it adjudicates, are at such complete variance with every thing in the shape of common sense, that it becomes literally impossible to deal with it. There is no code by which its decisions might be regulated; the Statute Book has no statute, the "*Insolvent Act*" alone excepted, by which its movements could be either checked or controlled. It is, in fact, one of the most extraordinary courts that ever was set up, or established in any civilised country. It can *remand*, but it cannot *commit*; it can pass "*Judgment*," but it cannot pass *sentence*; it can *order*, but it cannot *enforce*. In illustration of this fact, we are frequently presented with the unique and singular spectacle of a victim "*sent back*," as the phrase has it, "to prison, for one, two, or three years," as the case may be, "there to

"remain, inside the walls, and not in any Rules "or liberties thereof, before he shall be entitled to "his discharge under the Act," walk quietly out of prison the very next day, not only with the consent of the gaoler, but by his express and peremptory orders!

Now, my Lord Melbourne, nothing is more evident than that a court, which cannot enforce its "*Orders*"—or punish a gaoler for disobeying them —is anything but a court. It is downright mockery to call it such; of all the "*mocks*," the "*mock judicial*" is decidedly the most grotesque and "contemptible. But the instance which I have just noted is not the only instance where the "*Judgments*" of the "*Insolvent Court*" are treated with contempt. It is a matter of public notoriety, and, in fact, of daily occurrence, that after an unfortunate victim has exhausted his last effort in scraping together £15, or £20, to enable him to disburse the charges of "*going through the Court*," and a day fixed for his being put on his trial, his "*informer*" sends a discharge the night before, on receipt of which the gaoler puts him direct out of his prison. What pretention I would, with all due deference, ask, my Lord Melbourne, can a *Court* have to respect, which is unable to take cognizance of, or, in the slightest degree punish, two such gross insults as I have here pointed out? What course, it may be asked, would the Lord Chief Justice pursue towards a gaoler that should suffer a prisoner sentenced to three years' imprisonment, to go at large the very first day of his incarceration? And again, what course would his

Lordship pursue towards a gaoler that would suffer a prisoner to go out, much less force him out of his prison the night before the day fixed for his trial? These questions almost answer themselves: his Lordship would, and instanter, order him to be ironed, put on his trial, and, if convicted, sent out of the country for life.

In fact, so drenched is the "*Insolvent Court*" in absurdity and bitter outrage, that but two things more are necessary to make it the universal contempt and scorn of the country; and those are, first, the individuals administering its arrangements, receiving one shilling, whether under the name of fees, perquisites, or gratuities, beyond the regular and fixed salary allowed them by the Government;—and second, their being themselves *in debt*—to the amount of even one solitary farthing. *Debt*, that is, *contracting a debt* is, according to the constitution of the "*Insolvent Court*," a *crime;* and being a *crime*, the contractors of it must, of course, be *criminals:* hence it follows, that if the individuals administering its arrangements be themselves *in debt*, they present the hideous spectacle of *criminals* sitting in judgment upon *criminals!* The "*Insolvent Act*," however, all-destroying as it is, is but one instance amidst a thousand of the desperate lengths a corrupt and perjured Parliament, such as ours was previous to the passing of the Reform Bill, was prepared to go to prove its power, provide for panders, and secure its plunder.

Before the Reform Bill passed, the Parliament, it is well known, was convertible to every conceivable purpose. The minister, whoever he might

be, had only to send his edict, and it was at once bowed to, and registered. Pitt, in the early part of the French war, desirous to send the militia into active service, and unwilling to risk a mutiny by the violation of his compact that they should not be called on to serve out of Europe, hit upon the ingenious expedient of changing the geography of the world, and actually brought a Bill into Parliament which had for its object "the fixing, permanently, *Malta* in Europe"!—Parallel to this, is a Bill brought into Parliament by the late Lord Liverpool, shortly before his death, "*making it legal for the signature of the signing clerk in the Bank of England to be affixed to the notes by machinery.*"—That is, a "Bill" making it legal to forge a forgery!

Now, some reason might be given for Pitt's "Bill"; the country, at the time, was at war, and men were wanted to supply our armies on distant service—and Pitt, in my opinion, very naturally justified himself upon a recognised extenuation—"that to do a great right, he did a little wrong." Equally too, might Lord Liverpool have discovered an extenuation in a precedent which had been long established, and lay direct before him. He might have pleaded that there was nothing more extraordinary, or more opposed to sound wisdom, in having the signature of the signing clerk in the Bank *printed* on the notes, than having the signature of "*Ellenborough*" printed on the "*Writs of capias.*" There is, I must admit, a difference between the two cases, but it is a very slight one. No inconvenience could arise to the public from

the bank notes being so signed, as their circulation would proceed by convention:—not so with the "*Writ of capias*"—a *printed* signature being decidedly and palpably a *forgery*, all proceedings built upon it must, of course, become null and void.

I will not say that those two "*Acts*" should be bound up with the "*Insolvent Act*," because they are not exactly of the same class: they differ in some degree. The Acts of Pitt and Liverpool shew the ignorance and idiocy of the Tories, but the "*Insolvent Act*" not only shews their ignorance and idiocy, but also their *infamy*. If we wanted an exemplification of the term "*infamy*," we have only to refer to one practice in the "*Insolvent Court*," out of one hundred that might be referred to—namely, that of "*dismissing a petition*"!

If the Lord Chancellor were to dare to dismiss a petition seeking the redress of wrongs, he would, and most justly, be impeached. The Lord Chancellor, high and powerful as he is, and high and powerful as he ought to be, must not dare to shut his door against a suitor, whether that suitor approaches him publicly or privately. A suitor presenting to the Lord Chancellor a petition, memorial, or appeal (and they are one and the same thing) *publicly*, in open court, has nothing to fear: thus approached, a Lord Chancellor, as far as corruption is concerned, is powerless; not so, when approached *privately* in his chamber. There are two cases in which the Lord Chancellor is bound, *virtute officii*, to pursue this course; one is, *pro*

salute animæ; that is, where the crimes of parents have entangled consanguinity, the details of which, if made public, would pollute. The other is, *pro salute imperii;* that is, where confidential diplomacy would, if exposed, endanger the public service. In the latter of these cases only, can the Chancellor act corruptly: for, in the former, he has the eyes of the bar, and the parties upon him, but in the latter, he has no eyes on him but those of the first minister, and the suitor. Dare the Chancellor, I would fearlessly ask, though the head of the head court of the land, dismiss the suitor's appeal, or do, what would amount precisely to the same thing, give no answer to it? No; he dare no such thing, save at the peril of his life! No; I would dare him to do otherwise than receive, adjudicate, and give judgment on such "Appeal"; and he must do so, even though the suit was, as it assuredly would be, against his own colleague—his compeer—the first minister. And it is in such a case that the Chancellor would for ever rise or fall. It is with *justice* as with courage—*privacy* is the test of both. "*La parfaite valeur,*" says that profound reasoner, Rochefoucault, "*est de faire sans témoins, ce qu'on seroit capable de faire tout le monde;*" which might be construed—justice in the dark! If, then, the very highest court of judicature in the country dare not dismiss an appeal—and it is quite evident it dare not—how could it be imagined, without offering an insult to reason, that the very lowest could make the attempt?—monstrous idea!

But, in fact, nothing is monstrous to the "*Insolvent Court.*" That it does dismiss petitions, and

that too, without liberating the victim, we have the experience of every day. There is, in truth, no power, however extravagant—however unbounded, that it does not assume and exercise. It has, by the Act which enables it to administer its arrangements, abolished, and without one solitary exception, the whole of the statutes by which we guarded our liberty, our property, and our lives—*"Magna Charta"*—*" Bill of Rights"*—*" Trial by Jury"*—*" Statute of Frauds"*—*" Statute of Limitation"*—have all disappeared before it,—swept away—swept, without leaving even a trace behind!

We speak with horror of the *" Star Chamber"*;—why, it was a compound of law, equity, and justice compared with the *" Insolvent Court."* The *" Star Chamber"* infringed, but did not overthrow the Constitution; it robbed, but neither exposed nor tortured its victims; it abridged their present means, but did not extort from them, under terror of interminable captivity, assignments, bonds, and secrets. It struck at its victims—but it struck alone;—it did not invite, by public advertisement, others to join in the assault. It had an arena, but no compartments where the malicious could, for a solitary shilling, gratify their malice, by persuing the self-criminations of its victims. But, above all, though it raised its head, and raised it high, it never raised it beyond the verge of Parliament: there, at least, it quailed. It never denied to its victims the right of appeal.

With equal severity, but certainly not with equal justice, have the Bankrupt laws been condemned. Now, these laws were originally well meant; but in

process of time converted to base and mercenary purposes. Their object was suited to a commercial country; they were established with the two-fold view of protecting the honest, and punishing the dishonest trader. So long as they acted in this spirit they conferred an important benefit on commerce; but the moment they departed from their object, they became its bitterest scourge.

With all the defects, however, which are inherent in the bankrupt laws, they nevertheless have some redeeming virtues. They draw a line between persons in, and persons out of, trade. This is an admirable trait,—founded on sound sense, and wise policy. Persons engaged in trade, and persons wholly unconnected with it, obtain credit on two separate and totally distinct principles, and consequently should be dealt with, as far as their respective debts are concerned, in two separate and totally distinct ways. Persons engaged in trade have, or are supposed to have, capital; they also have, or are supposed to have, industry, prudence, and integrity; without which, capital would be worse than useless. Property therefore, given to these persons on credit, is given on that confidence which those valuable concomitants are always sure to generate wherever they exist. And it is thus, that when a deception has been practised on these points, or strong grounds are furnished for suspecting that it has been practised, the persons so suspecting have a just right (and the bankrupt laws enable them) to compel the trader to submit to an examination, and abide the result. Property to a large amount is en-

trusted to persons in trade, on the supposed possession of those *acquisitions;* and where grounds exist for suspecting that deception has been practiced, the laws founded on the law—*lex mercatoria,* or law of merchants, have placed in the hands of those who have parted with their property the power of compelling, by compulsory means, the disclosure of that fact. And this is nothing more than natural justice: the trader thus put under examination, is put under it on a supposed *breach of trust.* The *contract* is this:—"I give you," says the owner, "this large stock of goods, because you require a large stock, having, from the nature of your pursuit, to sell them again; and I give you a long time to pay for them, to the end that you may sell them to advantage;—but the distinct understanding between us is, that you reserve to yourself the whole of the *profit* arising from such sale, and pay over to me whatever may remain in discharge of my demand." Now, nothing can be more clear than that, if the trader retains the whole of the goods after the time of payment shall have arrived, and will give up no money, nor render any account of his losses, that he commits a *breach of trust,* and ought to be severely punished; and if it should be discovered that he had *secreted* any of the goods, he commits a *felony,* and ought, and nothing should prevent his paying the penalty. He is, however, not taken by surprise on any of these points; he is aware of the laws concerning traders, from the hour, almost, that he can distinguish right from wrong; and he is also aware, that those "laws" were made, not for the exclusive

benefit of creditors, but for the equal and mutual benefit of both debtors and creditors. Confirmatory of this fact, the trader is not, when brought under the arbitrium of the bankrupt laws, in prison;—he is not in the custody of the sheriff,—the marshal,—the warden,—or any other fanciful gaoler; he is free,—free as the air he breathes. On surrendering to his commission, his property rests, *by law*, in the hands of commissioners, (styled "Commissioners of Bankrupt,") but only till regular assignees are appointed; and who are appointed, not by the nomination of the commissioners, but by the election of the creditors. From the time of his surrender to the time of his certificate, he is in the *arms*,—not the custody of the law. He has from one to two months, and even longer if he require it, to examine into and draw up a statement of his affairs. His examination takes place *in private*, and with mildness and decorum. He is treated throughout as an honest, but unfortunate man; and if, in the course of his examination, he receives aught but what is fair and impartial, he can appeal to the Lord Chancellor; and he can do so, even though the appeal should be against the very commissioners under whose power he is passing his examination. He is not compelled to serve each of his creditors separately, with a "*notice*," setting forth the day on which his trial is to come on. He cannot be "*opposed*," as the phrase is, by ten or a dozen of his creditors, either "*in person or by counsel*." He knows nothing of that chief of brutal villains, styled "*the detaining creditor*." He is not called

upon to sign and swear to, some fifty different statements, nine out of ten of which, contradicting each other, and the whole of them contradicting the laws and constitution of the realm. He has no three months of bitter incarceration to endure, previous to his being brought to trial, or, to use the language of the system, "*to be heard on his petition,*" in order to prepare him for a subsequent sentence of three years. And above all, he is not in everlasting dread that the "*statement,*" which he has presented of his affairs, and to the truth of which he has solemnly sworn, will be "*dismissed,*" thrown in his face, and himself sent back to prison, there, to remain, "*without bail or mainprize,*" until *death*, the sturdy, and last sad comforter of the wretched, shall bear him off!

And what is the result of this mild and rational course? Why, it is this;—that many, very many of those traders come forward at a future day, and though fully released by law, from all responsibility on account of their debts, honourably and spontaneously discharge them, or what may remain of them, to the uttermost farthing, and with interest. Out of these "*many,*" I shall select one, whose conduct will be found peculiarly illustrative of the fact I have stated. It is that of *Walter Boyde,* formerly of the house of "*Boyde, Kirr, and Co.*" It is somewhere about thirty years now, since a commission of bankruptcy was taken out against this Mr. Boyde. He surrendered to his commission, but when his affairs came to be examined into, no commercial failure that had ever before taken place in England, exhibited so perfect

a wreck,—so perfect, that several of his creditors never gave themselves the trouble of proving on his estate. This gloomy prospect, chilling however as it was to Mr. Boyde's creditors, did not chill Mr. Boyde himself. He put his shoulder to the wheel, and with the zeal and energy of an honest man, pushed through his embarrassments,—broke to atoms every obstacle that opposed him,—and after years of toil and turmoil, presented himself before the Court of Chancery, to solicit a supersedeas to his commission, on the grounds, that he had paid twenty shillings in the pound, with interest, to the whole of his creditors, save two, who could not be found. His counsel stated to the Lord Chancellor, *Eldon*, that "the debts discharged "by Mr. Boyde since his bankruptcy amounted to "upwards of £600,000.; that there were two cre-"ditors for £12,000. who could not be found, but "that the amount of their demand was deposited "by Mr. Boyde in the hands of his assignees, there, "to remain till called for." On this representation, *Lord Eldon* ordered the commission to be superseded forthwith. The assignees, who were present, took the opportunity of paying Mr. Boyde the most marked and flattering compliments; they assured *Lord Eldon*, that with such complete success were the efforts of Mr. Boyde crowned, that notwithstanding the heavy sum he had paid to his creditors, he had nevertheless left to himself a surplus of full £600,000!

Here, my Lord Melbourne, I crave your attention,—your marked attention, while I *suppose* a case,—a case perfectly within the bounds of sound

sense, and sound reason. Let it be *supposed* that Mr. Boyde had, when his embarrassments commenced, been arrested on a "*writ of capias*,"—the English "*lettre de cachet*,"—and thrown into prison, and instead of a commission of bankruptcy being issued against him, he was compelled, in order to procure his release, to "*petition*" the "*Insolvent Court*" for permission to take the "*benefit*" of the "*Insolvent Act*,"—his prayer granted, and an "*order*" made for "his being brought up to be heard on his petition." Let all this, I say, be supposed; and then let me put the question fairly, whether something like the following would not be the "*judgment*" of that extraordinary Court, had it then been established, which the people of this country have, with heart and voice, to thank Heaven that it had not:—"This "case of the Insolvent at the bar, Walter Boyde, "is decidedly one of the worst and blackest that "ever came under the consideration of the Court; "and the Court would at once '*dismiss*' it, but "that it is of opinion the adjudicating on it, and "letting its '*judgment*' (which will be the severest "the Court has it in its power to grant) go "forth to the world, will confer a solid and lasting "benefit on the trading part of this country. The "Insolvent, as appears by his schedule, has been "preying upon the public for a number of years; "it was time to stop this wholesale *swindler*, (there "is no such word as '*swindler*' in the English "language,) and great credit is due to the '*detaining*' *creditor*, for having at last reached and "secured him. The measure affords one proof, at

"least of the inestimable value of '*arrest, and* "*imprisonment for debt.*' The Insolvent swears "that there are two creditors of his, for the enor- "mous sum of £12,000., which he could not serve "with '*notice,*' not being, as he alleges, to be "found. What downright, palpable, glaring per- "jury is here, on the very face of it! He would, "no doubt, have soon found the two persons "alluded to, had the £12,000. been due to, not "by, him." Then, again, the Court finds, on look- "ing further into his schedule, that he was in the "constant habit of drawing and accepting '*accom-* "*modation bills*' (there is not a bill passed in "Europe in the course of the year, that is not an "'*accommodation bill*'). Here are 'bills,' to the "amount of £750,000., purporting to be drawn in "Hamburgh, but in reality drawn in London; a "practice calculated, beyond any other the Court "is acquainted with, to *defraud* and *cheat* his "creditors, which in truth he has done with a "witness, and to no ordinary extent. The Insol- "vent accounts for his having practised this "imposition of dating bills from Hamburgh, though "drawn in London, by alleging that he was em- "ployed by that able Minister, Mr. Pitt, on confi- "dential missions; and that, without disclosing "the nature of those missions, and thereby giving "a deadly blow to the *public service*, he could "draw them in no other way. The Court knows "nothing of the '*public service*;' it has a duty to "perform, which it will perform regardless of "either the public or private service. The Insol- "vent must deliver up, unreservedly, to the

"*provisional assignee*" of the Court, all the letters, "papers, and documents, *official* and non-official, "connected with those fraudulently-drawn bills, of "£750,000.;—and he must do so, forthwith. The "Court also finds, on looking further through his "schedule, that he has put several of his creditors "to considerable expense, by taking a '*vexatious* "*defence*' to their respective actions (there is no "such thing as a '*vexatious defence*,'—there is "such a thing as a 'vexatious' attack, and an in-"famous kind of attack it is). The *judgment* of "the Court upon the whole is, that the Insolvent "shall not be entitled to his discharge under the "'*Act*,' until he shall have been in prison—that is, "inside the walls, and not in any '*rules or liberties*' "thereof, for the period of *three years*, from the "time of filing his petition, for fraudulently con-"tracting debts (there is, there can be, no such "thing as '*fraudulently contracting*'; the term is "absurd and without a meaning), and for making "away with his property, to the serious injury of "his honest and liberal creditors. Let the Insol-"vent stand down, and sign the '*warrant of* "*attorney*," and then be taken back to prison, there, "to remain till he has finished the time prescribed "by the judgment of the Court."

This, though a suppositious "*judgment*," forms a fair sample of the aggregate "*judgments*" given by the "*Insolvent Court*." Here, we have but to change Walter Boyde to ——, and the case is at once embodied. What necessity, it may be asked, was this country under for establishing such a court as the "*Insolvent Court*"? There is no other

country on the face of the earth where a court could be found, bearing the slightest resemblance to it in either construction, constitution, or character. In Scotland, the country of my birth, there is certainly the *Cessio Bonorum*; but it possesses nothing in common with the "*Insolvent Court*." The *Cessio Bonorum* is honourable,—nay, valuable, compared with that court. Yet has the *Cessio Bonorum* been complained against, and bitterly; and I avail myself of the present opportunity for bestowing on my illustrious relative, the Duke of Gordon, the meed of well-earned praise, for the manly efforts he has at various times made to rectify the abuses which have crept into that mode of dividing property in Scotland. If success did not crown his efforts, we owe the failure, not to lack of zeal, or want of perseverance, but to a host of harpies that contrived to worm themselves into its operations, and thereby draw large sums from its defects. But what court, where *law*—or what is called *law*—is administered, is this day in existence free from defects? There is no truth more indisputable than that uttered by the eloquent editor of the Edinburgh Review. "*The law*," said that eloquent writer, "*is unfortunately in a deplorable state all over the world.*" And why is it so? Why should a declaration which fills the mind with horror,—instead of having a particle of truth in it,—be all truth? I undertake to solve this all-important question, and to do so in a brief but impressive phrase. It is "*fees*,"—the plunder gathered under the specious title of "*fees*." "Fees" constitute the parent plant,—the

germ of every infamy,—every robbery,—every perjury,—every imprisonment,—every abuse,—every degradation,—every misery endured by the honest hard-working people of this country! "*Wherefore is it*," asks *Swift*, "alluding to the law, "*that that which should be every man's protection, is any man's ruin?*" The same answer can be given to this question as to the preceding,—it is, "*fees*,"—"A "very bad law," says Montesquieue, "that was "among the Romans, that gave permission to ma- "gistrates to take small presents, so they did not "exceed a certain sum." A very bad law indeed, it being a well established truth, that the smaller the "*fee*," the greater the plunder exacted under its guise,—ingenious robbers never being deficient in the art of striking out modes for multiplying its exaction. Every atrocious—murderous practice in the world owes its origin to "*fees*." It is "*fees*" that make the priests in India urge the widows to burn themselves on the funeral pile of their deceased husbands! It is "*fees*" that gave birth to that bloody tribunal, the *Spanish Inquisition!* It is "*fees*" that gave birth to that equally bloody tribunal, the English *Star Chamber*. And it is "*fees*" that have generated and perpetuated that murderous, plundering, desolating system of "imprisonment for debt." There is not a step taken by the "*informer*" in that atrocious system, from the "*writ of capias*," to the final destruction of his victim, that is not so constructed as to carry a "*fee*." Even the *Habeas Corpus* Act, which the Legislature passed for the sole and exclusive purpose of guarding the subject from oppression, is

diverted from its object, and made to perform the double duty of yielding a "*fee*," and taking the victim out of the custody of the sheriff, and bringing him into the custody of another gaoler,—painted over with the unmeaning title of marshal, or warden. Well it may be asked, what cannot the plundering power of "*fees*" effect? Here, we find the victim removed from all the horrors of a "*felon's prison*," and "*felon's discipline*," to, comparatively speaking, an elysium; and that too, without the slightest extenuating circumstance appearing in his case; he is still a *criminal*,—the *same criminal*,—namely, a *debtor*, that he was when he was first seized, and delivered over to the custody of the sheriff. In this, his new abode, however impossible he might find it to dismiss from his mind the infuriating thought that he is still a *prisoner*,—still a *victim*; yet he has the solace to know—that is, if it proves a solace to him—that he can gamble, idle, drink, whore, and make merry, in his new abode,—nay, he can do more: by paying his gaoler a stipulated sum, and giving him security for his prompt appearance at the "*lobby*," as it is called, whenever he (the gaoler) should think proper to command him so to do, he can walk out into a space, denominated "*the Rules and Liberties of the Prison*." Gracious God! What an outrage this, against common sense, and the plain construction of language? Who ever before heard of "*the rules and liberties of a prison*"? But "*fees*,"—the *plunder* perpetrated under the specious title of "*fees*," reconciles all absurdities, I

overthrow all impossibilities,—nothing stands before them.

The law, we are told, is the "*perfection of reason*"; if so, why have we so many *fictions* in it? A "*fiction*" is a *lie*,—a direct, plain, palpable *lie*. What is meant by "*John Doe and Richard Roe*," described as "*pledges to prosecute*"? Why not *John Ellenborough*, and *Richard Maryborough*? They are real existing characters; they are, besides, dealers—large dealers in "*Writs of capias*," and consequently large sharers in the "*fees*" springing from their destructive consequences.

Let us now, my Lord Melbourne, the time has arrived, enter the *dark chamber*,—and let us enter it together. Let us together see and search its silent—its hidden parts; its *judicial rack*,—its judicial chains,—its judicial rivets; its ropes, screws, and pulleys; and having done so, let us see, note, and take an account of the *workmen* there. By entering this *dark chamber*,—this pandemonium together, my Lord Melbourne, we can give no false account; we will each be a check on the other. If I err in the following list (as far as it extends) of the "*workmen*," you, my Lord Melbourne, will set me right. *Lord Ellenborough*, foreman of the *forge*, and overseer of the "*chains*" and "*rivets*," or "*Master-Clerk*" in the Court of King's Bench, £10,000. a year, from "*fees*." Duke of Grafton, mixer of the lamp-black and oil, or "Receiver-General of the *profits* of the *Seals* in the King's Bench and Common Pleas, £5,000. a year." Lord Kenyon, gatherer of the paper, or "Custos brevium" of the

King's Bench, £5,000. a year from "*fees.*" Marquis Wellesley, and Lord Maryborough, (brothers of the Duke of Wellington,) stirers of the memory, or Chief Remembrancers, £6,000. a year each, from "*fees.*" *Henry Brougham,* (now *Lord Brougham,* the immaculate abuser of *sinecures,* and since 1796, too, exactly 40 years!) head-driller, or "*Sergeant at Arms,*" £3,000. a year, from "*fees.*"

Study this list,—this sombre list,—my Lord Melbourne; it is wise to study it. Give to it,—for it demands it,—the most grave consideration. It is not much, surely, my Lord Melbourne, to say here, that neither you nor I ever expected to find such "*workmen*" in this "*dark chamber,*"—this pandemonium. 'Tis true, it never before was broken into,—or at least, if it was, it never before had a *light* boldly and daringly thrown into it. It is wonderful what strange and grotesque figures *light* discovers and makes visible in *dark* and hermetically sealed apartments. Of all people in the world, who could ever have expected to have found in such a place, such "*workmen*" as the Wellesleys and the Broughams?—men who have filled the world with their *wars* and their *warnings!*

But so it is; we found these very men there; we found them *flagranti delicto,*—that is, "*with the manor upon them.*" We found other "*workmen*" in the same "*forge,*"—but more of those anon. On view of this state of things, the first question that presents itself, is,—what is a *fee?* The answer is easy. A "*fee*" is a *bribe;* and under the atrocious system of "*imprisonment for debt,*" it is a *bribe* in its application, and a robbery in its exac-

tion. Now, of all the *crimes* in the black catalogue of *crimes*, that of *a judge* receiving a *bribe*, is decidedly the most deadly and revolting. And such was the execration in which our forefathers held this *crime*, that they actually passed a law, making it death, "*without benefit of clergy*," in any judge accepting a *bribe*, under whatever mask or title such bribe might be conveyed to him,—be it that of "*fee*," *present*, *emolument*, or *gratuity*. "A judge," says Montesquieue, "should take no money, either for doing, or declining to do, his duty. The law, making it penal in a judge to accept a *bribe*, is still extant, still unrepealed, and in full force. And our history gives innumerable instances of judges suffering under that law; among those, would assuredly have been Lord Chancellor Bacon, had not his *disgrace* been considered a far greater punishment on him than even his death." "I know not," says Junius, "which to pity most, he who survives, or he who sinks under, the loss of his honour."

The Legislature, it appears, was particularly strict in those days, in punishing judges for taking "*fees*," or *bribes*; for, finding that though the scaffold had finished many, the practice still continued, another law was passed, making it also death in the person who gave the "*fee*," or *bribe* to the judge. This was right,—this was correct, and consonant to natural justice; for, in point of turpitude, there is not a shade of difference between the *briber* and the *bribed*,—the *tempter* and the *tempted*. And it is a singular fact, that it was the rigor with which these two laws were at one time acted on,

that drove the judges to the alternative of either discontinuing the infamous practice of taking *fees* altogether, or of introducing into the proceedings of their respective courts a mass of palpable and downright falsehoods, under the specious title of *fictions*. Lord Chief Justice Thorpe, when at the gallows, a short time before he was turned off, told the crowd that had come to witness his execution, that "though he knew the crime in a judge of ac-"cepting a *fee* could not be pardoned, still he had "a right to complain that other judges, who had "been equally guilty as he was, were not that day "on the same scaffold with him."

Now, I fully agree in the doctrine laid down by the culprit, *Thorpe*, in this "*his last speech*" to the people; and I really cannot help expressing my indignation at seeing the *partial* manner in which the just vengeance of the law was poured out on that occasion. Not only should *all* the other judges who had accepted *fees*, but *all* the persons who had given those *fees*, have been brought to trial, and if convicted, placed on the same scaffold with *Thorpe*, there, to share a like well-earned and unpitied fate.

But though I approve fully, of *Thorpe's* doctrine, that every culprit guilty of the same crime, should have meted out to him the same punishment, I by no means approve of the *excuse* put forward at the close of "*his speech*,"—namely, "*the smallness of his wages*"; for at the same time that I am free to admit, six pounds a year, which I believe were the "*wages*" of a judge in *Thorpe's* days, was small; yet, as he knew its amount *before* he entered on the post, he had a just right to be satisfied with it. If the

frightful principle that the *smallness of the wages* paid to a judge, were to form a *justification* for increasing his income by *fees*, there would be no calculating on the consequences to which it might lead. *Sir Richard Terselian*, another chief justice, executed in the reign of Richard II., attempted, at the foot of the scaffold, to justify his infamy on precisely the same principle, namely, that of his "*wages*" being small, and consequently unequal to the expense of providing for, and bringing up his family. The great error our forefathers fell into was, in not prosecuting the *bribers* at the same time, and with the same rigor as the *bribed*. Why should those persons have been suffered to escape? "*They little know the injury they do to the innocent, who spare the guilty.*" It is a lame excuse to say their insignificance protected them; insignificant they unquestionably were, but are we to spare a criminal on account of his insignificance? Undoubtedly not. The *bribers* were, in general, the servants of the judges, or hangers-on about the courts, whom the judges found necessary to make use of, to collect and pay over the "*fees*" which they had exacted;—it would not do to be seen themselves, in the diabolical act of receiving those "*fees.*" Besides, another duty devolved to these collectors, namely, that of stirring up law suits, without which, it would have been impossible to produce an increase in the returns. These collectors were styled by the judges, (though it is difficult to say upon what grounds,) *attorneys*.

Originally the proceeding was by subpœna, or summons, and the final judgment against the goods,

and chattels *exclusively;* and it was not until the plunder became so general, and so oppressive, that no goods or chattels could be found to make the levy on—they were either sold, made over, or concealed,—that the idea suggested itself of issuing the judgment against the *body*, as well as against the goods.

It should be an inflexible rule with an organized society, to make the *first* victim to a tyrant, the *last;* had the man who was first seized on the authority of a "*writ of capias*" put the ruffian to death that seized him, as he was in all justice and mercy bound to do, we should not this day have to deplore the sacrifice of so many thousands—nay, millions of innocent unoffending victims!

I know, that speaking for myself, I unhesitatingly declare, that should any man dare to seize me in the street, or enter my house to seize me, on no other authority than that of a scrap of paper, signed by nobody, and containing no charge, or colour of charge (for such is the character of the "*writ of capias*"), I would put him to death with as little ceremony as I would a mad dog; I would do more, —I would glory in the act.

If a footpad or highwayman meets me in the street, or when travelling, and holding a pistol to my breast, demands my money, he thereby gives me the instant right of putting him to death; how much more indefeasible then, is my right to put that man to death, who, meeting me in the street, or entering my house, and holding a scrap of unmeaning writing to my breast, called a "*writ of capias*," demands, not only my money, but my

person? Surely my right to destroy him, is not lessened by the reflection that from the hour he so demands my person, the *accomplice* or informer that employed him can shut me up in a dungeon, rob me, and keep me there, to the end of my natural life! Surely my right to destroy such a monster, together with the whole gang of plunderers that join and assist him in his work of destruction, is unquestionable. Mercy to such a monster, or to his abettors, would be enmity to the human race—*hostes humani generis!*

Yes, my Lord Melbourne, they must be destroyed:—the destroyers must themselves be destroyed:—the wreckers must themselves be wrecked.

"A rightful doom, the laws of Nature cry;
'Tis the artificers of death should die!"

So true, my Lord Melbourne, to this point is reason and sound sense, that there is not a single one of those plunderers that could not, and that should not, be home prosecuted for levying money off the public by such infamous means. "We cannot," says that eminent judge and lawyer, Lord Hale, "indict a man for obtaining money or goods "on false pretences; we cannot, in fact, indict one "man for making a fool of another; but we can, "and should indict a man for obtaining money or "goods on '*false privy tokens.*'" Here is a fair and distinct line drawn by one of the ablest lawyers of his day. And there does not, nor can there exist a doubt, but that there are no "*writs of capias,*" or other "*writs*" or instruments in law proceedings which are not judicially signed, or, on the issuing of

which a *fee* has been exacted, that do not fall direct under the head of "*false privy tokens.*" Nor, my Lord Melbourne, is there, on the same principle, a single victim this day languishing in prison, under the fangs of the atrocious system of "*imprisonment for debt,*" that cannot, and that will not, after he shall have perused this all-important, all-enlightening work, present himself before his gaoler, and demand his instantaneous liberation.

And to you, my Lord Melbourne, personally, in your high official capacity, will those victims also appeal; they will, and with justice, appeal to you, for compensation for their wrongs,—for balm for their wounds! And, my Lord Melbourne, you will not, you cannot, suffer them to appeal in vain; if you do, the laws of their country will take their case in charge. But mark, my Lord Melbourne, and bear well in mind, that it is only where honour ends, that law begins. There would be nothing new in a prime minister being compelled, by law, to render justice to a fellow subject. An ENGLISH JURY—eternal honour wait on the name!—gave to our illustrious patriot, *Wilks*, a verdict of £1000. against the prime minister of his day, *Earl Bute*. That verdict, my Lord Melbourne, went still farther; it abolished, and for ever, the infamous practice of "*general warrants.*" But your Lordship may here tell me, that you have signed no "*general warrants,*"—that you know nothing of the "*writs of capias,*" (which are, in fact, "*general warrants,*" only under another name,)—that you never signed a "*writ of capias*" against your fellow subject, and

that it would indeed be hard to make you answerable for an act you never committed. To this reasoning I reply, that if you, my Lord Melbourne, know nothing about "*writs of capias*," you ought to know something—nay, everything about them; "where knowledge is a duty, ignorance is a crime." To whom, my Lord Melbourne, would we charge the disorders of an army, but to the general that commanded it? If a prime minister was only accountable for the abuses he saw, or chose to see, deplorable indeed would be the state of that country which was cursed with such a minister. Surely, my Lord Melbourne, it is not possible, after all you have seen, that you are still under the influence of that wily architect of new governments and new administrations, Lord Brougham. If you are, you are undone. The roof of heaven does not this day cover, politically speaking, a worse man than Lord Brougham. The notorious Colonel Charters, in a letter to his son, writes thus:—"Don't give "yourself so much uneasiness, my dear boy, about "*virtue*; it is not worth a *stiver*; I would not give "a *stiver* for it, but I would give ten thousand "pounds for a good name, for with it I could cheat "the world." Lord Brougham gave that sum, or more, for "a good name"; he got it, and true to the Colonel's creed, with it he has cheated the world.

Some gentleman, addressing his constituents not long since, called Lord Brougham an "*intellectual giant*." Good God! How true is the aphorism, that "*flatterers* are the worst of enemies"! A more contemptible intellect was never bestowed on

any man, than that which the Supreme has been pleased to bestow on Lord Brougham.

"Praise not, till a man is thoroughly known;
A rascal praised, you make his faults your own."

In which of Lord Brougham's works, I would, with all due respect, ask the candidate above alluded to, did he discover the "*gigantic intellect*"? Not in the Poor Law Amendment Bill;—not in the Bankrupt Amendment Bill;—not in the Criminal Court Amendment Bill;—and most assuredly not in the Law Reform Bill, of which he has times out of number given notice. In none of these certainly, which I have here enumerated, has the "*gigantic intellect*" of Lord Brougham appeared. Let me then see if I cannot find another test, whereby the fact might be ascertained. Let me try him on his own territory,—his own element,—the *law*. In this element he should at least shine. But does Lord Brougham shine in that element? Let the following facts answer that question. When the bill for the abolition of the atrocious system of "*imprisonment for debt*" was brought up last session from the Commons, Lord Brougham said, on bringing it forward, or pretending to bring it forward, that "it was a measure requiring the gravest attention; that the *numerous interests* which it involved "and affected rendered it a most difficult and most "delicate task." (!!!) Good Heavens! What is all this? What does it mean? What proof have we here, in all this jargon, of a "*gigantic intellect*," or even of the commonest of common intellects? Now, my Lord Melbourne, tell your country, if you know,—and you ought to know, for Lord Brougham

has repeatedly declared he kept no secrets from you,—what the "*numerous interests*" were, to which he alluded. He could not, surely, have alluded to the "interests" of those persons who have been for years,—years without number,—plundering, incarcerating, and in every conceivable way destroying the oppressed and impoverished classes of his Majesty's subjects! Did Lord Brougham allude to the "*interests*" of Lords Ellenborough, Wellesley, Maryborough, Kenyon, Buckingham, &c. &c. ? or of the "*interests*" of some fifty more of the same class? Such as Lord *Arden*, who as Registrar of the Admiralty Court, receives £35,000. a year, in *fees*? Lords Camden, Thurlow, Bathurst, and Buckingham, who, as Tellers of the Exchequer, receive 30,000*l.* a year each, in *fees*? (Those last-mentioned "*fees*" increased during the war, in an exact ratio with the increase of the expenditure which that war occasioned!) Or were it the "*interests*" of bailiffs, gaolers, judges, sheriffs, attorneys, &c. &c., that Lord Brougham found it so difficult and delicate a task to deal with? Did not that wily Lord know, that in the whole list of "*interests*" there was but *one* solitary "*interest*" to be considered, and that was the "*interest*" of the *community*? Did not Lord Brougham know that? If he did not, he knew nothing. If Lord Brougham did not know that the "*interest*" of the "*community*" was the first, the sole, nay, the exclusive "*interest*" that was to be considered, so far from being a *learned* man, he must have been one of the most ignorant men in existence. The first thing that gave me a close view of Lord Brougham's character and at-

tainments was, the request he made of the King on the opening of the first Parliament called by Lord Grey, "to grant to the Members of the two Houses (the Commons and the Lords) *privilege* from arrest for debt." Gracious God! what will the world come to, at last? To call a man "*learned*," that could make such a "*request*"—and make it of the *king*, too! To ask the *king*, *one* of the three branches of the Legislature, to grant an exemption from the effects of the most atrocious practice that ever sprung up in any unfortunate country, for the members of the other two branches!!! Is it possible that the *noble* (?) and *learned* (?) Lord was ignorant of the fact, that the *king* could grant no such "*request*?" and that it was high treason in a Lord Chancellor to endeavour to induce one branch of the Legislature to pass a law, without the concurrence of the other two branches,—and that "law," a law of exemption, in favour of those other two branches!

Numerous as are the obligations the people of this country are under to the editor of that great moral engine, the *Times* journal, there is not one for which they should feel more sincerely or more deeply indebted, than the unmasking of that arch architect of new governments and new administrations—*Lord Brougham*. To that wily architect with truth might be said, that which was said to a hypocrite of old,—"*The Lord shall smite thee, thou whitened wall*"!

With respect to the "*privilege*" asked of the king, it is but necessary to observe, first, that all *partial* laws are universal wrongs. Second, that it

is the acme of human despotism for a legislative assembly to exempt its own members from the operation of laws of its own making. Third, that the force, power, and efficiency of a law, consist in its being made, not for an individual, or individuals, but for a whole people—a whole community—*"scitum est jussum in omnes."*

But to revert to the bill for the abolition of the atrocious system of *"imprisonment for debt,"* which Lord Brougham took charge of last session in the House of Lords; what, I would ask, has become of that bill? The man who could prevail on himself to believe, that the idea of taking a single step on that *"bill,"* ever entered the mind of Lord Brougham, must be neither more nor less than a downright idiot. How could Lord Brougham move on such a bill? Lord Brougham, no more than any other man, could not undo that, which never was done; he could not untie a knot, that never was tied. In a word, he could not repeal a statute that never was passed.

Here, my Lord Melbourne, you will tell me that it is unreasonable to condemn Lord Brougham for not carrying a bill through the Lords, which I myself acknowledge was impossible to effect. Now I do not condemn Lord Brougham, for not carrying the bill, but, for having promised to carry it, when he knew in his soul, that he never could carry it. I condemn him for cooly and premeditately filling up the cup of hope to the pining victims with one hand, while he was feeling with the other for their vitals, to plunge the dagger of disappointment into!

Lord Brougham could not injure the "*interests*" of the "noble Lords"(?) he saw around him; he could not injure the "*interests*" of Ellenborough, Wellesley, Maryborough, Grafton, Camden, Thurlow, Bathurst, Buckingham, Arden, Kenyon, and some fifty others who drew piles of property from the *fees* which the atrocious system of "*imprisonment for debt*" produced. Neither could he bring himself to perpetrate the cruel act of injuring the "*interests*" of Barber Beaumont, and others, who had had the misfortune to lend money on those "*fees.*" But what do I say, would Lord Brougham injure his own "*interests*"? Could he attack himself, as Sergeant at Arms?—could he criminate himself? He was not *then* in the "*Insolvent Court,*"—I mean the "*Insolvent Court*" in Portugal Street, for there are other "*insolvent courts*"*!!!*—where, he would be *compelled* to criminate himself; and therefore was only called upon to say, what he wished, or chose to say. Why, my Lord Melbourne, Lord Brougham was the very last man in the house that could throw the first stone,—and, *he knew it.*

If those "*fees*" dropped from the sky, or rose from the ocean, or if they were taken from the public hedge, that is, from the public funds, and made their way to the pockets of those peers through the medium of collectors and gatherers, it would still be infamous in them, to accept of them; it would, I say, be infamous in them, to accept of money which they never earned, and to which they could lay no manner of claim. How much more infamous then, is it in them, to accept of those "*fees,*" when it is known that they are extorted

from the oppressed and impoverished classes in the state, *exclusively*. With Lord Brougham, however, these "*classes*" have no "*interests*"—

"He pities the plumage, but forgets the dying bird!"

The flatterer that styled Lord Brougham an "*intellectual giant*," erred most miserably. The proof of a powerful mind—the master mind, lies in *perception*, and *conception*, followed up by *action*. Memory is a quality, not attainment; with some, a flexible quality—suspended at will; no one knows how, and when to suspend it, better than Lord Brougham. Lord Brougham knew, and his soul was filled with the fact, that there were no less than three statutes already on the statute book—unrepealed, and in full force, that not only abolished, but shattered to atoms the atrocious system of "*imprisonment for debt*." Did his memory fail him, or was it suspended? Or did he never hear, or read of, "*Magna Charta*," the "*Bill of Rights*," and the "*Habeas Corpus*" *Act*?

Let us hear what the first of these splendid statutes—"*Magna Charta*," or, as it is styled in English, the "*Great Charter*," says;—"we will *sell* to "none,—we will *deny* to none,—we will *delay* to none, "*right*, or *justice*." The other two statutes are of equal force and tenor; and the three, *conjointly*, constitute what is called the *constitution*,—the "*English constitution*."

Now, brilliant as those three statutes are, in appearance, it is my doctrine, that nothing is good, if good flows not from it; and on that doctrine, I boldly take my stand. The question then is, has

any, and what good flowed from those statutes? Let the following home-proved facts answer that question. They smashed to atoms, the atrocious practice of "*general warrants,*"—and they did so at one blow, and without the circuitous mummery of an act of Parliament! They did more, they made the prime minister of England, *Bute*—tremble on his throne; they did still more, they made that same prime minister pay, in pride,—in consequence,—and, in money, for his stretch of power!

——— "'Tis the sport, to have the engineer hoist
With his own petar"!!!

What think you, my Lord Melbourne, will those splendid and potent statutes *suspend* their force and efficacy to make room for the free operation of another species of *general warrants,* the "*writs of capias*"? No, my Lord Melbourne, the power and efficacy of those splendid statutes, cannot, even for a day, be suspended; they constitute, conjointly, as I have before said, the "*constitution*"; and on that I pronounce, that if there is any one law in England more valuable—more solid—or more lasting than another, it is the law of the "*constitution.*" Yes, my Lord Melbourne, the "*constitution of England,*" with its attributes, shall ever have my love, my homage, my gratitude; it has for ages had, and for ages will continue to have, the love, the homage, the gratitude of the people of England,—and it is thus that it has become, if I may so express myself, immortal—imperishable! Wherefore, it may be asked, if these be the undying perennial blossoms of the "*English constitution,*" have we so many thousands, nay, hundreds of thousands thrown into

dungeons without a charge, or colour of charge being brought against them? The question is big with import; I will answer it. It is because the *instrument*,—or, to speak in the phraseology of the system, the "*writ of capias*,"—on the authority of which the king's free born subject (and the king has no subject that is not free born) was first seized, and incarcerated, was studiously and cautiously kept from the public eye;—it was issued in secret, none but the *initiated* were allowed to see, or have a knowledge of it. It was the grand arcanum of the *bona dea* of the plunderers. And in that dark, concealed, and infamous recess, it might, and in all human probability would have remained to all eternity, had I not penetrated—penetrated to the core, and the core itself, that atrocious system, the system of "*imprisonment for debt.*" Read that instrument,—that "*writ of capias*,"—my Lord Melbourne, you will find it set forth at page 9 of this work; you will find it there, my Lord Melbourne, set forth in clear and legible characters. And, my Lord Melbourne, you could not too deeply weigh and study it. A more important document was never brought under the consideration of an English minister.

That surely must be the most important, of all important documents, that not only overthrows the "*English constitution*," but after it so overthrows it, treads on it, degrades it, and in all directions drags it through the sewers and channels of the lowest and basest of all corruption—*official* corruption. I do not include "*official plunderers*" in the term, "*people of England*";—they are a different class, as they have lost *caste!* They are *hors de société.*

Had *Lord Bute* been as great a villain as he was a tyrant, he would, instead of the bold and manly step he took, have got one of his creatures to swear a *debt* against our illustrious patriot, Wilks, for 40,000*l.* or 50,000*l.*—and by that course, at once destroyed his victim, and secured himself. A "*writ of capias*" for 50,000*l.*, as the ransom, would have held the illustrious patriot to bail, in no less a sum than 200,000*l.* And this is only the one-half of what the South American agent was some few years ago, required to find bail for. The "*writ of capias*" against that respectable foreigner, was for 100,000*l.*; consequently the securities required, amounted to the enormous sum of 400,000*l.*! Here, my Lord Melbourne, is another of the *screws!* The "*constitution of England*" declares, that neither the judicial judge, nor municipal magistrate, shall require of the king's subjects "*excessive bail*"; that, to require "*excessive bail,*" was tantamount to a sentence of *perpetual imprisonment.* I will now, my Lord Melbourne, give you a closer view than any I have already given, of the atrocious system of "*imprisonment for debt.* For a crime, at the bare mention of which, the blood runs cold through the veins, the Bishop of Clougher (Jocelyn, the brother of Lord Roden), was required to find bail only for the trivial sum of 1,000*l.*, for himself, and the soldier that was detected with him!

The monstrous disproportion here, between the amount of the bail required for a *real,* and that required for an *artificial* criminal, establishes the fact beyond all question, that the atrocious system of "*imprisonment for debt,*" was never invented to ob-

tain a debt, but to secure the *fees*, that were made to spring from the machinery put in motion on that specious pretext. This dreadful state of things must end, or it will end the government, and throw the country into anarchy and confusion. I shall take from the group I have enumerated, of persons participating in those "*fees*," a single case, that of *Lord Ellenborough*. To procure for that nobleman the sum of 10,000*l.*, which he annually receives from "*fees*" arising from the issue of "*writs of capias*," 10,000,000*l.*, at least, must be extorted from the suffering classes of this country! Let me illustrate. On the "*writ of capias*" issued against our respectable countryman, Mr. Chambers, for which, not more was paid to *Lord Ellenborough*, than about three shillings, a demand was made on that gentleman, after he had been incarcerated in the Fleet eleven years, for, if public report speaks correctly, 25,000*l.*, on the score of *costs!* Now, your Lordship is aware, that the word "*costs*," is a term used to describe the aggregate of "*fees*." Dean Swift says, that the English collect their debts, at an expense of five hundred per cent: that able writer would have been nearer the truth, had he said five, or even fifty million per cent! Is it to be wondered at, my Lord Melbourne, with such immense plunder in prospect, that every effort should be made that ingenuity could suggest, to increase and make prosperous the sale of "*writs of capias*"? It is not *creditors*,—the participators in this plunder want, but *customers!* A *creditor*,—that is, a fair, upright, honourable *creditor*, could never suffer such an insane idea to come near his mind, as that of depriving a man that owed

him money, of his liberty. It is the direct and absolute interest of a real *creditor*, that his debtor should be free, prosperous and happy. He well knows that to injure his debtor, is to injure himself,—that their interests are identified—reciprocal.

Let the four and twenty elders rise to that man, in whose presence his debtor smiles, and looks cheerful. *Mr. Baring—Alexander Baring* (now Lord Ashburton), declared in his place in parliament last session, when that variegated bill, romantically styled, a "Bill for the abolition of *imprisonment for debt*," was under discussion, that, "for his part, "he had no interest in the matter,—he never ar- "rested a man for debt in his life." Let then, I say, the four and twenty elders rise to that distinguished, and justly venerated nobleman. Let the name of *Ashburton*, and all the virtues, go hand in hand down to the very last syllable of recorded time: it is a name for which the owner has, at an honourable and generous price, purchased immortality! Has Lord Ashburton been ruined by his liberality? Has he given credit? Yes, to almost every man that applied to him; to every man who could produce to him testimonials of his integrity, and industry, even though he might not have had a second shirt to his back.

What is this thing called "*debt*," which is so criminal in one man, and so harmless in another? And wherefore is it, that a man under prosecution for *debt*, shall, by the very machinery of that prosecution, be made to add to his crime under the undefinable name of "*costs*"? If being in *debt* be reprehensible and disgraceful, wherefore is it, that

almost every man in the king's dominions is more or less in *debt?* But above all, wherefore is it that the Government of the country itself, which should show an example of all that is implied in the term, honourable, be in debt? Why does the Government owe in one sum, 800,000,000*l.*, and in separate and detached sums, somewhere about twenty millions? Under this last mentioned head, is to be found a demand on them for 800,000*l.*, by the Baron de Bode. The Baron, in his memorials to Parliament, charges the Government with having received his money from the French Government, and expending the greater part of it, in the building of that gew-gaw called Buckingham Palace. If there is no such sum as 800,000*l.*, due by the Government to the Baron de Bode, or any lesser sum, why do not the Government prosecute him,—prosecute him criminally? If a man make a claim on the Government, no matter what the amount, he at once reduces them to one, of two alternatives, namely, to either pay, or prosecute him. If they decline to prosecute, the fact of the claim being honourably and justly founded, becomes unquestionable. In confirmation of this truth, I will just observe, that *Lord Stanley*, when a member of the Grey administration, declared in his place in Parliament, "that the claims of the Baron de Bode, on "the British Government, were most justly, and "most honourably founded." It is true, Lord Althorpe, when a member of the same administration, declared also in his place in Parliament, that there was not a shilling due by the king's Government, to the Baron de Bode! Without presuming to enter on

the delicate task of weighing the specific credit due to each of these members, I do say, for myself, that, in concurrence with the opinion of every upright and honourable man in the kingdom, I believe that Lord Stanley did deliver the truth.

There is an unfortunate fatuity attending the decisions of the Chancellors of the Exchequer in this country. This fatuity may be dated back to *Mr. Pitt.* That minister conceived, and acted upon the principle, that the payment of a large claim on the Government, and the loss of his place, were simultaneous events. All the persons who have, subsequent to his administration, filled the office of Chancellor of the Exchequer, have acted on precisely the same principle. Napoleon has said, that, "almost all ministers are liars." No greater truth ever fell from the lips of that gigantic genius. I confess, I feel a kind of pity—not unmixed with contempt, for an English minister, when he degrades himself by uttering a falsehood. Pitt, for a number of years denied that there was any money due to Mr. Palmer, the ingenious individual that established the mail coach institution in this country: the Duke of Portland adopted the same language towards Mr. Palmer as Pitt. Mr. Perceval went farther, and threatened to criminally prosecute him; yet, no sooner had Mr. Perceval died, than his successor—Lord Liverpool, brought a bill into Parliament, which had for its object, the authorizing His Majesty to pay Mr. Palmer the sum of 57,700*l.*, balance due to him out of the remuneration to which he become entitled, for the ingenuity of his plan. Lord Liver-

pool's answer to a question put to him during the discussion on the bill, is curious, and not without interest; he said, "it mattered not how many "changes had taken place in the ministry, since "Mr. Pitt had made the contract with Mr. Palmer; " the '*contract*' was made—and must be kept." Here, Lord Liverpool gave the same decided, and peremptory contradiction to the assertion of Mr. Pitt, that *Lord Stanley* did to *Lord Althorpe!* Lord Bathurst, when at the head of the Colonial Department, denied for a number of years, that there was any money due to Lescerne and Escoffery, of Jamaica, on the score of compensation for injuries done to their property by the authorities of the island. Mr. Justice Bosanquet, one of the most upright judges on the bench, to whom the case was referred, awarded to those gentlemen the sum of 16,000*l.*; thus giving to the assertion made by Lord Bathurst, the same decisive and peremptory contradiction that Lord Liverpool gave to the assertion of Mr. Pitt.

It will give some idea of the hardships endured by Lescerne and Escoffery, and the efforts they made to procure redress from Lord Bathurst, when I state, that in answer to a motion made in Parliament, to have the correspondence of those gentlemen printed, Lord Howick, then under-secretary in the Colonial Department said, that the motion could not be complied with, under an expense to the country of 5000*l.*!!! No wonder that Mr. Pitt should have exclaimed that, "no honest man could be minister." I do believe it was the only true and sincere word on political subjects he ever

uttered in his life. Now, nothing is easier than for a minister to be an honest man. He has only to reverse the present order of finance, and instead of making the expenditure come down to the income,—make the income come up to the expenditure. And this he can readily do, by striking off the *whole* of the sinecures, and nineteen-twentieths, at least, of the pensions.

There is another course pursued by a dishonest minister, which, if possible, goes beyond the injury, deep as it is, which the delay in the payment of a *claim* inflicts, and that is, the abusive insolence, and dastardly calumny which respectable persons are condemned to, that come forward to vouch for the justice of a "*claim.*" Let me illustrate. Lady Glencairnes had been for a number of years pressing the minister—*Perceval*—for a sum of money due to her deceased husband, William Lesley Hamilton, late Attorney-General to the Leeward Islands.—Among the vouchers for the justice of the claim, were several from under the hand of the immortal *Nelson.* To a memorial thus supported, the honest minister, Mr. Perceval, replied: "I am sorry, Lady "Glencairnes, that you rest so much on the force of "Lord Nelson's opinion. *With me,* you could offer no "name of *less weight.* I never thought of the late "*Lord Nelson,* or his services, as the world have; so "far otherwise, that I consider, *his death was the* "*salvation of his country,* since, had he lived, he in "one way or other would have ruined the nation, "and emptied the treasury." (See *The News,* of Sunday, the 27th of May, 1812.)

Did Mr. Perceval, it may be asked, believe that

Lord Nelson was, in reality, the merciless destroyer he represented him in that letter? Did he believe that the *death* of that great and illustrious chief, was in reality, the *salvation* of his country,—and, that the prolongation of his life, would have led to its ruin? No, but Lady Glencairnes was a *claimant* on His Majesty's Government, and *Lord Nelson* knew, and vouched for that fact,—*this was the secret!*

It is extraordinary, yet true, that shameful as the expedients resorted to by ministers—and resorted to, for years are, to get rid of "*claims*" on the Government, there is not one of those "*claims,*" particularly if it be for a large amount, that is not ultimately liquidated; a fact, which goes to prove, and incontestably, that such "*claim*" was originally well founded. For a verification of this truth, we have only to turn to the case of Walter Boyde, who after a turmoil of twenty years, spent in efforts to obtain his "*claim,*" was at last paid it by the Government, and with interest, amounting altogether to no less a sum than 1,200,000*l.* No claimant on the Government, should be discouraged from prosecuting his claim, after perusing this passage. The man who ceases to urge his right,—deserves to lose it.

With what face, my Lord Melbourne, I would now ask—emphatically ask, could a minister get up in his place in Parliament to propose, much less discuss a Bill, making it penal to *delay* the payment of a debt, when the records of the country teem with proofs of the very Government themselves being in the constant habit of delaying, and

for years, the payment of their own debts?—Besides, the idea is romantic, there is no defining it,—the very word "*credit*" implies in itself a *delay* of payment. "*Credit*" is, in truth and in fact, "*a delay of payment.*"

The time is gone by, be assured, my Lord Melbourne, when *fraud,* can be substituted for *law*—or *fiction,* for *fraud.* We have now on the statute book no less than 70,000 statutes making *fiction, fraud*—and *fraud, law!* It is this mass of incongruities that has given us in the *law department* a Government;—not a Government *within* a Government—*imperium* in *imperio,* but a Government *over* a Government;—a Government in itself, an actual, bonâ fide Government, performing all the offices of a Government,—levying taxes, raising troops; building prisons; granting pardons, premiums and pensions; appointing magistrates, bailiffs and gaolers; establishing ordinances, rules, and regulations; issuing proclamations, outlawries, general warrants, and "*letters of safe conduct.*" Yes, my Lord Melbourne, and it is right you should know it—and that our beloved Monarch, William the Fourth, should also know it, that the same department goes the length of assuming even the prerogative of the Crown—but not its mercy. The crown issues its commands in the plural number "*We,*"—so does that department—"*We command you, that you take,*" *&c.* This, my Lord Melbourne, must cease;—it has, in fact, I may with confidence say, ceased. This work will not be forty-eight hours in circulation, till the atrocious system of "*Imprisonment for Debt,*" shall

be spoken of only as a system that had once an existence in this country.

But the abettors of the atrocious system will exclaim,—"If you remove this system, what will you give us in its place?" I answer,—nothing; in reality nothing—we have only *to return to first principles.* England, one of the first and most intelligent countries on the globe, has not, surely, got up to the nineteenth century, without having, at one time at least, of her history, fixed on a mode, whereby the transactions between man, and man, might be adjusted and regulated. Every thing went smoothly on in England up to the reign of Henry the Fourth—at which period, the atrocious system of "*imprisonment for debt*" first commenced. And so dreadful were its effects, although only in its infancy—that the Legislature found it necessary (ignorant, of course, of *where* the cause lay) to exclude from Parliament, all persons connected with, or deriving their living from, the *law.* The statute on this point is still unrepealed, and in full force.

Now, this, to say the least of it, was a very weak measure on the part of the Legislature. The evil did not lie in the persons connected with the *law,* but in the infamy of the judges of that day, who conceived, and acted on, the base idea of increasing their salaries, by the exaction of *fees.* This is the grand secret. To possess those "*fees*"—and to invent stratagems, and multiply the occasions for exacting them, become their sole and exclusive business. I shall select one, out of these "*inventions,*" and that one, is a wrecker—"*contempt of*

court," the true meaning of which is, delaying to pay "*costs*"—a term, as I have before said, used to express the aggregate of *fees.* Under this one *fang* (and it has a thousand *fangs*) of the atrocious system of "*imprisonment for debt,*" hundreds of the king's subjects have been robbed and murdered! Under this *fang,* Captain Green was kept for eight-and-twenty years—Hannah Barber, for two-and-thirty years—and Major Williams for forty years, close prisoners in the Fleet—in which they finally perished! Who were their *murderers !!!*

"Hear, ye rulers, this truth sublime—
Who aids oppression, shares the crime."

There is not an individual participating in the *fees* exacted by the law department, that is not a party to these three murders!!! *Commission, permission,* and *omission* are alike criminal in public functionaries.

It was in the Court of Chancery where the first idea sprung up of violating the bankrupt laws, and establishing the "*Insolvent Court.*" The bankrupt laws, decidedly the wisest that are to be found on the statute book, precluded private individuals—that is, individuals unconnected with trade or business, from deriving any benefit from their operation. This preclusion was the very acme of commercial policy. The debts of a private individual, having no connection with trade, can never, in any country having the slightest pretension to civilisation, be *cancelled.* A private individual obtains credit on a totally different principle to that on which a person in trade or business obtains it;—he gets credit on his *honour*—and

"*honour*" can never be cancelled! The private individual is the final consumer; as such, the property he obtains on credit disappears—is consumed. He has of course, speaking generally, nothing to give up; he keeps no accounts—neither is he under the necessity of keeping any. To *cancel* his debts therefore would be to stab, and to the heart, the whole commercial world. The retail trader would be ruined, and in process of time, that ruin would reach the wholesale dealer.

A man's first and principal creditor is *his family;* I would say, if so much infamy did not attach to the term, that *his family* was his "*detaining creditor.*" His next creditors are, his butcher, baker, tailor, shoe-maker, and all such persons as supply him with the necessaries and comforts of life. After these, come his creditors for borrowed money;—selecting invariably, and on all occasions for preference, as to time, such of his creditors as are poor and needy. But, if in discharging demands made upon him, he pays one farthing *less,* or one farthing *more* than he justly owes, he deserves to be broken on the wheel,—and I pray Heaven he may.

Now, no persons suffer more from the atrocious system of "*imprisonment for debt,*" than those I have above enumerated. It completely deprives their debtors of the means of paying them, and at the same time furnishes them with an ample excuse for their inability. If a man is compelled, under the terror of incarceration, to pay what he does not owe, nothing can be more clear than that a period must arrive, when it will not be in his

power to pay what he really does owe. Thus, those fair and honest creditors lose by the system, both their money and their customers.

Simple, indeed, must that man be, who could be prevailed on to believe, that the "*Insolvent Court*" was established for the *benefit* of creditors. The real secret is, that from the successful means resorted to, for increasing the sale of "*writs of capias*," more than 20,000 additional prisons must have been built, to hold the overwhelming influx of victims, if some device had not been struck upon, to take off the surplusage; and that device was, the "*Insolvent Court.*" It is not a little singular, that the eulogists of that "Court" should either, never have perceived, or wilfully suppressed, the fact, that no deed, assignment, or security of any description, executed by a man, while he was in prison, was worth one farthing. We cease to be responsible, when we cease to be free! And equally singular is it, that those eulogists did not also perceive, that as there was but one particular species of *crime*, tried in that "*Court*,"—namely, *debt*, there should be no such sentence passed by the individuals presiding over it, as that, "the *criminal* should be entitled to his discharge forthwith." A forthwith discharge, is a forthwith acquittal; and if acquitted, and so speedily, it follows incontestably, that he should not have been imprisoned, and consequently, not put on his trial. A measure of this nature casts a heavy imputation on the "*Court*," for not having informed itself of his innocence, and thereby prevented an unmerited and cruel incarceration. There are other features

existing in the arrangements of that "*Court*," that call for inquiry: that one, for instance, which allows the Commissioners to become themselves, that, which in the phraseology of the system is called—not prosecutors, but—"*opposers*." They can examine, cross-examine, and re-examine the victims; and on the result of such examination, pass sentence on them! There is but one point more on which I shall remark, and that is, the necessity of ascertaining in what particular the "*writs of capias*," which come under the view of these commissioners, differ from those that are current with the public. This is a most important point to ascertain; for, if they do not differ,—if they are the same, in every respect,—in their wording, in their tenor, in their nakedness,—but above all, in their utter deficiency in every thing that could justify the king's subjects being put into prison in the first instance, and subsequently put on their trial, the adjudicating on them must, most unquestionably, incur a tremendous responsibility!

The "*writ of capias*," which, as the *groundwork* of the prosecution, ought to be the very first thing read and examined by the judge, appears never to be attended to. This neglect of a duty—an imperative duty,—has tended to increase, and to a serious extent, the already swollen list of atrocities with which the system abounds. Let me illustrate. A sheriff's officer, as he is called, thrust a poker down the throat of a man whom he had seized on a "*writ of capias*," and killed him on the spot; he was tried for the murder, and acquitted, on the ground of having killed the man for opposing him

in the execution of his duty! Not long after, a sheriff's officer, at Liverpool, fired a *ramrod* through and through the body of a man whom he had seized on a "*writ of capias*"; he was tried for the murder, and acquitted, upon the like grounds. And about the same time, a major in the army, was shot dead, by a sheriff's officer, for shaking hands with a friend of his, at the time he was in the grasp of that ruffian, on a "*writ of capias*"; he also was tried for murder, but acquitted on the same grounds. On each of the trials, the judge told the jury, that "where a sheriff's officer had arrested a "man on a '*writ of capias,*' he was justified in "taking strong measures to prevent a rescue"!!!

Now, I do say, that it was the duty, the bounden duty of the judge, before he suffered the defence to be gone into, to have called for the "*writ of capias,*" on the authority of which the accused acted in the first instance; and it was his further and bounden duty, in his charge to the jury, to have pointed out to them all the strong and empowering mandates set forth in such "*writ of capias,*" before he recommended to them to pronounce a sentence of acquittal. Comments on these events would be superfluous; they speak with the voice of thunder! Upon the whole, I do conscientiously think, that if a premium were this day offered to the man who should discover the most certain, most expeditious, most effectual mode of *preventing* a man from paying his debts, he could not, if his life were the penalty of failure, strike out one more consummate in every respect, than is to be found in the atrocious system of "*imprisonment for debt.*"

If the mania of *promising* to bring bills into Parliament for the redress of abuses should again seize the mind of Lord Brougham, let him, in the name of God, bring in a bill to change the crime of *debt* into the crime of *sleep;* and let the "*writs of capias*" be, not abolished, for that would indeed be ruin, but issued in future against *sleepers,* instead of *debtors;* guarding in the same bill, as an able statesman would, against the serious consequences which might grow out of a sudden and extensive rise in the article of *opium;* the sick, and ailing, being *still* an object with the good people of this country.

After this important bill had received the royal assent, Lord Brougham should go on,—for, like Cæsar, naught is done while aught remains to do,—and bring in a bill to alter, and amend Mr. Pitt's bill, for placing *Malta* in Europe, to the extent, of placing Europe in *Malta.* Any infant could put the *lesser* into the *greater,*—the grand achievement of reversing this, was reserved for Lord Brougham. And his Lordship would have nothing to plume himself on, on the occasion, having a precedent in the achievement of Sir Samuel Broad-street, who went into a quart bottle, and on learning that a rival had sprung up, determined to defeat, and did actually defeat that rival's arrogance, by going the next night into a pint bottle.

With respect to Lord Brougham, individually, I may be told, that as he has receded from the world, his political conduct should not be canvassed. Strange doctrine this:—Lord Brougham did not recede from the world, until the world had long before receded from him.

One of the many evils with which this country is afflicted, is legislation,—excessive legislation; her floors bend under the weight of her statutes. *Pitt*, the prince of Tories, began this evil, and his pupils have followed his example. Man is an imitative animal,—but now and then mistaking his power, exhibits the petty impotence of

"Fools aspiring to be knaves."

Without a direct and palpable breach of the constitution, (eternal gratitude to our forefathers,) no man can introduce,—barely introduce a bill, into Parliament, that has not on the very face of it, the stamp of reason, justice, and humanity. All that is required in a legislator is, sound sense; the world is tired of orators, whose only fort, is *change*—eternal *change:* they will make such and such a law, but they will make it only for one year, to see how it works. Now, the able statesman knows, intuitively, how a law will work; and after he presents it, throwing it on its own axis, proposes that it shall endure as long as the circumstances that called for it, shall endure. "The adopting several expedients," says Rochfoucault, "for effecting a particular ob-"ject, is not so much the fruitfulness of the imagi-"nation, as a defect in the judgment, not being able "to fix on the best first." This is true, as a general rule; but it does not apply to the presenters of infamous bills; with them, the defect is, not in their judgment, but in their principles. This fact is exemplified in the "*Insolvent Act*," or "*Insolvent Debtors' Act*," as it is sometimes called. The very *title* of that "Act" was, in itself, sufficient to open the mind of the most consummate idiot that ever exist-

ed. The term "*insolvent*" applies, *exclusively*, to an individual,—and means a man, that is embarrassed—broken down—shattered; a man, on whom *Fortune* has thrown her deadliest, and most degrading spites. If this be the case, and the case it assuredly is, how can we apply such epithets to an Act of Parliament,—or to a Court established by an Act of Parliament? We could not say, without putting on the "*fool's cap*," down to our very shoulders, an "embarrassed, broken down, shattered *Act of Parliament*," or "*Court*," springing from that "*Act*": a "*Court*," on which *Fortune* had thrown her deadliest, and most degrading spites.

It is an old, and a true saying, that when a man is on a wrong road, the farther he goes, the more wrong he gets,—folly begets folly, and *confusion* ends the pedigree!

It would be an insult to you, my Lord Melbourne, and to the intelligent people of this country, to enter further into the subject of the "*Insolvent Court*": it is abolished! The *constitution* abolishes it! Reason abolishes it! The Legislature too, as far as a legislature could abolish a *baseless* institution—has abolished it! The House of Commons abolished it last session; and the king abolished it some sessions back, when he granted Lord Brougham's request of privilege from arrest for debt. As to that branch of the legislature, called the House of Lords, its concurrence has been dispensed with in passing innumerable statutes, not only now in full force, but in full operation.

"There is," said the Earl of Shaftesbury, in speaking on the second reading of the Reform Bill, "cor-

ruption in *every* department of the state." This is true, and the observation, including as it does, and most justly, the "*law department*," brings me at once to the centre of that atrocious system which I have been opening and dissecting.

On that department then, I say, that it must, nay, it shall undergo a thorough—a sweeping change. It must no longer beard, trample on, and set at defiance the king,—the king's government, his crown and dignity. It must no longer sow misery, and reap plunder,—rob, and incarcerate, that it may rob. That department, which was expressly instituted to redress wrongs, must not itself inflict those wrongs. It must stop its acts—overt acts of treason; it must issue no more "*writs*," having for their object the incarcerating, robbing, and murdering the king's subjects, in the king's name. The king can issue no "*writ of capias*"; he can issue no "*writ*" to injure his subjects: the "*Writ of Right*," the "*Writ of Mercy*," and "*Writ of Sequestration*," are "*writs*," which the king can issue, and which are worthy of him to issue. The *law department* can have no prisons,—accept no *fees*,—grant no pensions,—levy no taxes,—confer no privileges,—receive no deposits,—invent no fictions,—pass no forgeries,—nor allow any duty to be performed by deputy.

The truth is, my Lord Melbourne, and it is in vain to longer conceal the fact, that the "*law department*" has brought this country to the very verge of ruin; and nothing under heaven can prevent the final and complete consummation of that ruin, but a thorough and sweeping change in every

one of its compartments, from the *Court of Chancery*, down to the *Court of Requests*—inclusive. The very names of those "*Courts*" must undergo a change; they have become abhorrent to the nation, and must be thrown into the page of darkness. "*Chancery*,"—"*King's Bench*,"—"*Common Pleas*,"—"*Exchequer*,"—what names for courts of law! What man in his senses could affix a rational or definite idea to such names? In a commercial country, *not cursed with Tories*, three "*courts of law*" are amply sufficient to arrange and decide on all the transactions that could arise in it;—a Notarial Court (which the Court of Chancery was, originally), and a First, and Second *Chamber of Justice*. The "*Notarial Court*" to give notice to the subject that a complaint had been made against him; the "*First Chamber of Justice*" to investigate that complaint, weigh it, and decide on its claim to attention; if frivolous to dismiss it,—if important, to send it to the "*Second Chamber of Justice*," to have the points of difference determined by a jury. Similar courts should be established in all the provinces; and as the transactions between man, and man, are occurring every day, these courts should be open every day for adjudicating on whatever might be brought before them. In this country, the subjects of the king, charged with no crime, cannot be required, much less compelled, to appear personally before any tribunal, save *as a witness;* they cannot be compelled to answer any question touching their property, except in the character of *traders*, and not even in that character, except under a commission of bank-

ruptcy. No individual holding a situation in these "Courts," from the judge to the sweeper, inclusive, should accept a *fee*, or *bribe*,—for they are synonimous terms,—or a single farthing beyond his fixed, and regular salary, but under a penalty of imprisonment, and hard labour for life. If we hung judges twenty feet high, for accepting *fees*, whose salaries amounted to no more than 6*l.* a year, how many feet high should we not hang judges for accepting *fees*, whose salaries amounted to 6,000*l.*, 10,000*l.*, or even 14,000*l.* a year?

A great and imperative, and to you, individually, my Lord Melbourne, I most willingly believe, pleasing duty now devolves,—that of apportioning *compensation*, and *punishment*. To enable you to discharge this two-fold duty, it will be indispensable to move, in Parliament, for a *return* of the names of all the "*informers*," or as they are more generally styled, "*detaining creditors*"; the account made up from the first rise of Toryism, to the present time. I can myself furnish the names of upwards of 1700 of those miscreants; but the *list* must be perfect. To this "*list*" are to be added, the names of the sheriffs, and sheriffs' officers, that have acted executively in the atrocious system.

It is of importance to observe here, that there is no such public functionary as a sub, or under sheriff. The king is the sheriff, and there can be no such thing as a sub, or under king. What the punishment to which these miscreants may be condemned, after their trial and conviction, is not for me to say: treason, robbery,—robbery, accompanied by violence and forgery, are heavy charges! Thus much

as regards *punishment*. A word now on the subject of *compensation;* and on that point it may be asked, who are the persons entitled to compensation? This question almost answers itself. The first persons on the list, most unquestionably are, the *victims;* next to them, the gaolers, and turnkeys who had to perform the painful duty of keeping in custody, those *victims*. To each of those gaolers I would award an annuity of 500*l*. for life; and to each of the turnkeys an annuity of 100*l*., also for life. If we give to a Chancellor, on removing him from office, and who had no painful duty to perform (for it could never be a painful duty *to a Chancellor* to keep victims in prison for twenty-eight, thirty-two, and even forty years, *for fees*); 5,000*l*. a year; we could not possibly offer the persons who kept those "*victims*" in custody, in order to extort those "*fees*," a less sum than I have stated. The third, and last persons, entitled to *compensation* are, the *attorneys*. As the *attorneys* are the persons who advanced the "*fees*," in the first instance, to the law department, and who have, though most unjustly, as I have shown, borne *all* the odium that attaches to the atrocious system, a most liberal compensation ought to be made to them. Their demands upon the "*informers*," or "*detaining creditors*," whose property, like the property of all *felons*, will go to the crown, should be paid them to the uttermost farthing. I know no persons to whom the change I suggest, will render a greater, or more lasting service, than to the "*attorneys*." Under the change, "*attorneys*" will become, as from their acquirements they are every

way entitled to become, a most useful class in the state. If the present atrocious system was bad, with *attorneys*, what would it not have been, *without* them!

To meet those several claims, we have 40,000,000*l.* ready to our hand in Chancery, now, and for a long time, treading an idle round; and somewhere about 40,000,000*l.* more, divided among the other courts, down to the Court of Requests, *inclusive*. To this sum of 80,000,000*l.*, may safely be added, 20,000,000*l.*, which cannot fail to arise from the sequestrations of the property belonging to the workmen your Lordship and myself found in the "*dark chamber*," or, rather let me call it, the *robbers' cave*.

With respect to the 80,000,000*l.* disgorged by the law courts, it will be necessary to publish the names of the *causes*, and of the parties to those "*causes*" in which each distinct sum was lodged, to the end, that such of the right owners as have survived the misery they endured, in consequence of the absence of their property, may receive what shall appear due to them. And, even after this equitable act shall have taken place, a residue of millions will remain, as applicable to the noble purposes I have named. I do not mean to say, that the whole of the money lodged in those "*Courts*" will be forthcoming; but in all instances where the judges have been plundering the lodgments made in their courts, we shall have the satisfaction of knowing that, as in the case of Baron Power, they are sure of laying violent hands on themselves.

How melancholy is the reflection, that the very men who are members of the "*dark chamber*," or "*robbers' cave*," should also be members of that branch of the Legislature, falsely called the House of Lords! I freely concede to the elegant and able reasoner, who writes under the signature of "*Publicola*," in that highly favoured journal, the "*Dispatch*," the merit of being the first to *open*, and subsequently *warm* my ideas respecting the "*House of Lords*." It is the disclosures made in that distinguished writer's celebrated "Letters," that first directed my steps to the "*dark chamber*," or "*robbers' cave*," as I have called it. Robbers they are—a pirate is a pirate, sail under what colours he may.

It is no wonderthat the *Tories*,—the infamous—the flagitiously infamous *Tories*, should hate the king. The king is a *Reformer*,—he would remove every abuse; the *Tories* would continue every abuse, they therefore hate the king,—they hate him

"For those virtues which Cato cursed in Cæsar."

The king is the model, the prototype of that great monarch who, on opening the *prisons*, lamented that he could not also open the *tombs!*

In drawing near the close of this "work," I would direct your attention,—your marked attention, to the serious position in which this country would be placed, in the event of a war breaking out with a foreign power. A war of only one month's duration, in her present condition, would leave her the poorest and most helpless nation on earth. Should Russia, for instance, invade us at this moment, where would be our means of defence? Yes, I repeat, and emphatically, where would be our

means of defence? Russia has a larger fleet, by treble, than that which this country possesses, and she is every day adding (clandestinely, I acknowledge) vessels of the largest class to that fleet. With an overgrown maritime power, does Russia want men? No. Does she want money? Assuredly, no. Does she want courage, ambition, or love of glory? No, she abounds in those attributes. What then does she want to render the success of an invasion of this country for one moment doubtful? Absolutely nothing. Russia hates this country, and thoroughly; and, my Lord Melbourne, her emperor knows, as well as you or I, that so enraged are the people against the Government for having permitted the *Tories* for such a series of years to incarcerate and plunder them, that a straw would overturn it! Russia could land to-morrow, and with ease, in any part of England, Ireland, or Scotland, half a million of fighting men! Who could we send to oppose such a host? Assuredly, not the Great Captain—the captain of a thousand battles,—or rather the *butcher* of a thousand *slaughters!* He would not go!—he will never *again,* draw his sword, *in war.* He has made his fortune—his *otium cum dignitate.* He has got rich, and in proportion as he has got rich, the people have got poor! I know something of that man,—yes, and of his brothers, too. I did not sit down to write this "work," without *materials!!!* *Wellington* made his fortune by *war;* and his two brothers made theirs, by *law.* Upwards of a million of men, the flower of the nation, perished in the wars in which *Wellington* was engaged; and at least as many more

perished in Ireland alone, during the same period, by the operation of the *law*, in which his two brothers were engaged! Lords Wellesley and Maryborough officiated in that branch of the *law* in Ireland (the Exchequer) out of which the "writs" issue, for the collection of *tithes!* What, between the *tithes* themselves, and the "*Exchequer writs*," as they are styled, which are called into use for the purpose of enforcing their collection, the inhabitants of that ill-fated country are not stripped of a less sum than twelve millions, annually! What confusion of property would not arise in that country, had the respective signatures of Lords Wellesley, and Maryborough, to the law documents pertaining to their judicial office, been fabricated in the same way the signature of Lord Ellenborough has been, to the "*writs of capias*"? Is it to be wondered at, that *Wellington* should hate Ireland? We hate those we injure. No one is better acquainted than Wellington with the creed, which teaches, that when one man injures another, he should go on to injure him,—to pursue him, even to death, in order to take out the sting of his revenge! Is it to be wondered at, that after hating Ireland, he should also hate one of the best, the ablest, and most powerful friends she ever possessed on, or off the floor of Parliament,—I allude to the illustrious *Daniel O'Connell!* Had *Wellington* nothing in the *life and actions of* that great man, to fasten his spite, and envy on, but the 30,000*l.* a year, bestowed on him, gratuitously, by his grateful country? Bad taste,—very bad taste this, on the part of *Wellington*, who was himself receiving

a like sum of 30,000*l.* a year, from a foreign country, to which he rendered no service, and in which he left, when leaving it, naught but grief and mourning! To which Government, that of *Spain*, or that of *England*, would Wellington, in the event of a war, be disposed to pay his allegiance!!! The *acidity* of a question is sometimes an excuse for not answering it.

I turn now, with pleasure, from a subject in which nothing is found but bitter, and bitter associations, to one diametrically opposite.

And first, what will the king, the ministry, and the people *lose* by the *change* which this work will effect? I pause for an answer. What! no answer? Well, then, what will they *gain* by the *change*? Much! All the great interests of the country, which now lie sick, and bleeding at every pore, will revive, look up, and flourish; more than 100,000 families, now wandering and spending their money in foreign climes, will return to the bosom of their country; the re-occupancy of more than 20,000 houses, now lying untenanted, and falling into decay; the poor rates reduced from 8,000,000*l.* to 4,000,000*l.*; and, taking in the whole of the United Kingdom, 200,000, at least, of the king's innocent and unoffending subjects, restored to life and liberty!

To the victims of the atrocious system I would now address myself. To them, I would say,— "Victims of a murderous banditti! Be calm,—use "your triumph with moderation. Violence is not "the characteristic of great minds. *Fury* is not "*force*—nor force, power. Besides, you are not on

"your march to *liberty*,—but *liberty* is on its "march to you."

Having discharged the important and imperative duty of admonishing the eager thirsters after liberty; I would now address you, my Lord Melbourne, personally, and say—"Read this work; read it "with attention; it contains the elements of peace, "—and, as a consequence, the salvation of your "country. To you, individually, it offers fame "—fame of the brightest hue! Win it!—and "having won it, you may say with the Roman that,

"'One-half of round eternity is yours!'"

In conclusion, my Lord Melbourne, the case resolves itself to this,—that, *if*, forty-eight hours after the publication of this "*Work*," there shall remain in prison, one solitary individual, no matter how humble, that the mandate of the king's Secretary of State for the Home Department *cannot* set free,—the *compact*, between the king and people, of reciprocal protection, and allegiance, is *dissolved*,—the crown vacant,—and the people (in whom, according to Blackstone, the *jura summa imperii*, or rights of sovereignty, rest) at liberty to establish a *Republic*, or any other form of government, with which, they may, if disposed, renew the "*compact*."

I have the honour to be,
My Lord,
Your Friend and Fellow-Citizen,
ROBERT GORDON.

London, July 7th, 1836.

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